United Nations S/PV.4948

Security Council

Fifty-ninth year

Provisional

4948th meeting

Thursday, 22 April 2004, 9.30 a.m.

New York

President:	Mr. Pleuger	(Germany)
Members:	Algeria	Mr. Baali
	Angola	Mr. Lucas
	Benin	Mr. Adechi
	Brazil	Mr. Valle
	Chile	Mr. Acuña
	China	Mr. Cheng Jingye
	France	Mr. De La Sablière
	Pakistan	Mr. Khalid
	Philippines	Mr. Baja
	Romania	Mr. Dumitru
	Russian Federation	Mr. Karev
	Spain	Ms. Menéndez
	United Kingdom of Great Britain and Northern Ireland	Mr. King
	United States of America	Mr. Holliday

Agenda

Children and armed conflict

Report of the Secretary-General on children and armed conflict (S/2003/1053 and Corr.1 and 2)

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-31790 (E)

The meeting was called to order at 9.35 a.m.

Adoption of the agenda

The agenda was adopted.

Children and armed conflict

Report of the Secretary-General on children and armed conflict (S/2003/1053 and Corr.1 and 2)

The President: The Security Council will continue its consideration of the item on its agenda.

The Security Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them the report of the Secretary-General on children and armed conflict, contained in document S/2003/1053 and Corr.1 and 2.

Members of the Council also have before them document S/2004/314, which contains the text of a draft resolution prepared in the course of the Council's prior consultations.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote now.

There being no objection, it is so decided.

A vote was taken by show of hands.

In favour:

Algeria, Angola, Benin, Brazil, Chile, China, France, Germany, Pakistan, Philippines, Romania, Russian Federation, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America

The President: There were 15 votes in favour. The draft resolution has been adopted unanimously as resolution 1539 (2004).

The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 9.40 a.m.

United Nations S/PV.4949

Security Council

Fifty-ninth year

Provisional

4949th meeting

Thursday, 22 April 2004, 9.40 a.m.

New York

President:	Mr. Pleuger	(Germany)
Members:	Algeria	Mr. Baali
	Angola	Mr. Lucas
	Benin	Mr. Adechi
	Brazil	Mr. Valle
	Chile	Mr. Acuña
	China	Mr. Cheng Jingye
	France	Mr. De La Sablière
	Pakistan	Mr. Khalid
	Philippines	Mr. Baja
	Romania	Mr. Dumitru
	Russian Federation	Mr. Karev
	Spain	Ms. Menéndez
	United Kingdom of Great Britain and Northern Ireland	Mr. Thomson
	United States of America	Mr. Holliday

Agenda

Decision of the Libyan Arab Jamahiriya to abandon its weapons of mass destruction programmes

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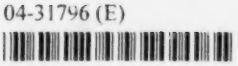
04-31796 (E)



The meeting was called to order at 9.40 a.m.

Adoption of the agenda

The agenda was adopted.

Decision of the Libyan Arab Jamahiriya to abandon its weapons of mass destruction programmes

The President: The Security Council will continue its consideration of the item on the agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

After consultations among members of the Security Council, I have been authorized to make the following statement on behalf of the Council.

"The Security Council takes note of resolution 2004/18 of the Board of Governors of the International Atomic Energy Agency (IAEA) regarding the implementation of the safeguards agreement of the Socialist People's Libyan Arab Jamahiriya, a State party to the Nuclear Non-proliferation Treaty, by which the Board requested the Director-General of the IAEA to report a case of non-compliance to the Security Council for information purposes only, while commending the Socialist People's Libyan Arab Jamahiriya for the actions it has taken to date and those it has proposed to take to remedy it.

"The Security Council welcomes the decision by the Socialist People's Libyan Arab Jamahiriya to abandon its programmes for developing weapons of mass destruction and their means of delivery and the positive steps taken to fulfil its commitments and obligations, including its active cooperation with IAEA and the Organization for the Prohibition of Chemical Weapons (OPCW).

"The Security Council takes note that in its resolution 2004/18 the Board of Governors of IAEA recognized the decision of the Socialist People's Libyan Arab Jamahiriya as a step towards the realization of the goal of an Africa and a Middle East free of weapons of mass destruction and at peace.

"The Security Council reaffirms the need to seek to resolve proliferation problems by peaceful means through political and diplomatic channels.

"The Security Council welcomes existing and future efforts to assist the Socialist People's Libyan Arab Jamahiriya in this task and expresses the hope that the steps taken by the Socialist People's Libyan Arab Jamahiriya would facilitate and improve international cooperation with and enhance the security of that country.

"The Security Council encourages the Socialist People's Libyan Arab Jamahiriya to ensure the verified elimination of all of its weapons of mass destruction programmes. It welcomes the roles played in that regard by IAEA and OPCW in facilitating the fulfilment of the Socialist People's Libyan Arab Jamahiriya's commitments, demonstrating the importance and usefulness of existing international treaty regimes.

"The Security Council expresses the hope that resolution 2004/18 of the Board of Governors of IAEA will be implemented in the spirit of continued cooperation."

After consultations among members of the Security Council, I understand that this statement will be issued as a document of the Security Council under the symbol S/PRST/2004/10.

The Security Council has thus concluded the present stage of its consideration of the item on the agenda.

The meeting rose at 9.45 a.m.

United Nations S/PV.4950

Security Council

Fifty-ninth year

Provisional

4950th meeting

Thursday, 22 April 2004, 9.50 a.m.

New York

President:	Mr. Pleuger	(Germany)
Members:	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Wang Guangya
	France	Mr. De La Sablière
	Pakistan	Mr. Akram
	Philippines	Mr. Baja
	Romania	Mr. Motoc
	Russian Federation	Mr. Gatilov
	Spain	Mr. Arias
	United Kingdom of Great Britain and Northern Ireland	Mr. Thomson
	United States of America	Mr. Cunningham

Agenda

Non-proliferation of weapons of mass destruction

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-31807 (E)

The meeting was called to order at 9.50 a.m.

Adoption of the agenda.

The agenda was adopted.

Non-proliferation of weapons of mass destruction

The President: I should like to inform the Council that I have received letters from the representatives of Albania, Argentina, Australia, Austria, Belarus, Canada, Cuba, Egypt, India, Indonesia, the Islamic Republic of Iran, Ireland, Israel, Japan, Jordan, Kazakhstan, Kuwait, Liechtenstein, Lebanon, Malaysia, Mexico, Namibia, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Peru, the Republic of Korea, Singapore, South Africa, Sweden, Switzerland, the Syrian Arab Republic and Tajikistan, in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.

The President: The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

In accordance with the understanding reached among Council members, I wish to remind all speakers to limit their statements to no more than four minutes in order to enable the Council to carry out its work expeditiously. More than one quarter of the membership of the United Nations has asked to speak in this meeting. I think it would be only fair to give all a chance to express their concerns and make their comments and suggestions. If everyone sticks to four minutes, I think everyone will have a chance to participate in a useful way in the Council's deliberations. Delegations with lengthy statements are kindly requested to circulate the text in writing and to deliver a condensed version when speaking in the Chamber.

As another measure to optimize the use of our time and in order to allow as many delegations as possible to take the floor, I will not individually invite speakers to take a seat at the table or invite them to resume their seat at the side. When a speaker is taking the floor, the conference officer will seat the next speaker on the list at the table. I thank all for their understanding and cooperation.

I now give the floor to the members of the Council.

Mr. Baja (Philippines): Mr. President, thank you for convening this open meeting on the draft resolution on non-proliferation of weapons of mass destruction (WMD). We accept and respect your technical veto on statements exceeding four minutes, and we will adhere to it.

It is fortuitous that your first speaker on the subject comes from a country that does not produce WMD and has therefore nothing to proliferate, but which finds itself under the same obligations as other countries that do produce and have the capacity to produce WMD. I believe that a great majority of your speakers, and of the United Nations membership, is in this unique position. It is also unique that, while the measures mentioned in the draft resolution are directed at non-State actors, the onus of implementing them rests upon States.

My delegation appreciates, therefore, the timeliness of this open debate and the value of listening to the views of the general membership, who would be implementing the resolution. Those who are bound should be heard. This is an essential element of a transparent and democratic process, and is the best to proceed on a resolution that demands legislative actions and executive measures from the 191 Members of the United Nations. In this regard, we welcome the initiative of the sponsors to present the draft resolution to regional groups and to discuss with them and other interested parties what is in the text and what is not in the text.

We approach the subject through the prism of measures to combat terrorism, which constitutes a threat to international peace and security. We believe that other States also take this approach and that is why there is a consensus, not only among the members of

the Security Council but also in the general membership of the United Nations, about the serious threat posed by nuclear, biological and chemical weapons falling into the hands of non-State actors and being used for terrorism.

There is also general acceptance that there is a gap in existing non-proliferation regimes to address this threat. Addressing this serious threat now is the common ground on which we are all building. A clear and present danger that non-State actors will take advantage of this gap requires exceptional responses.

We are aware that existing multilateral obligations on WMD emanate from multilateral treaties that have resulted from negotiations in which all parties have closely examined those treaties and have agreed to be committed to their provisions. This resolution deviates from time-tested modes of creating multilateral obligations but my delegation essentially regards it as an exceptional measure to address a new and urgent potential threat not covered by existing treaty regimes. The Council is moving to a new phase of combating terrorism and, if it is to play a crucial role, as it should, in combating this threat to international peace and security, its members will have to display extraordinary degrees of flexibility and realism on the issue.

We note the positive elements of the draft, which have been stressed by the sponsors and which will help us support it, namely, the incorporation of the fulfilment of obligations in relation to arms control and disarmament, peaceful settlement of disputes and non-retroactivity of the resolution. We are also assured that the draft does not preclude multilateral agreements on the subject, that it does not infringe on existing treaty regimes nor hamper international cooperation in materials, equipment and technology for peaceful purposes, and that it does not ipso facto authorize enforcement action against States that fail or are unable to comply with the obligations imposed by the resolution. We accept these as articles of faith.

However, we seek further clarity in the definition of the mandate of the proposed committee. Based on the divergence of ideas on the time frame of the committee, it is clear that the sponsors have different ideas on the scope of the role of the committee. We believe that the time frame of the committee will be more easily decided once the mandate is clarified and agreed upon.

Finally, we hope that the draft resolution on this item can be adopted by consensus to signify the seriousness and strong desire of the Council and of the international community to counter the threat posed by WMD falling into the hands of non-State actors. An authoritative pronouncement exerts an independent influence on State behaviour, even as it imparts a strong message to its intended recipients — the non-State actors. The Council's efforts to address the proliferation of WMD will enjoy a greater resonance if the general United Nations membership can own such efforts. In this way, the law on the books will be the law on the ground.

The President: I now call on the representative of Brazil.

Mr. Sardenberg (Brazil): Mr. President, the delegation of Brazil would like to commend you for convening this timely open debate. By responding to the request of Canada, Mexico, New Zealand, South Africa, Sweden and Switzerland, you have created a crucial opportunity for all Member States to express their views and perceptions on the draft resolution on weapons of mass destruction (WMD) and non-State actors. We believe that the United Nations membership will provide an indispensable input into the negotiations now taking place within the Security Council.

The Brazilian position regarding the current draft is based on two clear underlying premises. First, the Council is dealing with the potential threat posed by non-State actors, especially terrorists, who have access to nuclear, chemical and biological weapons, as well as to their means of delivery. The Council seeks to close a gap in international law — and let me add that the relevant international instruments do not deal in the required detail with that potential threat. Secondly, there is a sense of urgency, given the gravity of this matter.

Brazil is in a comfortable position to address this issue. At the domestic level, the Brazilian Constitution forbids the use of nuclear energy for non-peaceful purposes. Appropriate laws regarding the prohibition of chemical and biological weapons have already been adopted. At the international level, we are party to all major treaties and arrangements: the Treaty of Tlatelolco, the Non-Proliferation Treaty (NPT), the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and the Chemical and Biological Weapons Conventions.

We are also a member of the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR). Additionally, with the creation of the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC), Argentina and Brazil pioneered a scheme for bilateral nuclear inspections that is widely seen as a model of cooperation. Our credentials on this field are thus unimpeachable.

In parallel, we pursue the universalization of all international instruments in the field of WMD and urge their full implementation by States parties. A world without any weapons of mass destruction would be a safer world for all of us, for our children and grandchildren. We take this opportunity to invite all Member States to show their commitment to this cause.

With the aim of safeguarding the integrity of existing international treaties and conventions, the delegation of Brazil circulated to members of the Council on 8 April a non-paper suggesting an alternative way of addressing the subject of WMD and non-State actors. We believe that such an approach provides a satisfactory and expeditious manner of pursuing our shared objectives in a way consistent with international law.

In addition, it is our view that, by avoiding the term "non-proliferation" and by resorting to innovative language aimed at characterizing the linkage between non-State actors and WMD as a new development in international life, we would have sidestepped many legal, political and practical difficulties in our negotiations, while sharpening the focus of the draft.

Although showing a readiness to consider our non-paper, the sponsors were not really responsive to it. The explanations provided, however valuable, did not seem to us entirely persuasive or sufficient. This encouraged the belief that the only way still open for improving the draft resolution would be the presentation of further amendments.

Indeed, last Tuesday, 20 April, our delegation circulated a small number of amendments expressing our concerns. Those proposals, I note, are complementary to other suggestions already submitted by members of the Council, which have our support. To our regret, only a few of the proposals have been incorporated so far into the revised text. But, we assume that the Council will be working towards reaching a consensus on this matter.

Having said that, I would like to state our core positions regarding the draft resolution as it stands.

First, the draft resolution should emphasize the primary responsibility of the Council to act against any potential threat to international peace and security, as provided for by the Charter of the United Nations.

Secondly, it should make use of new concepts to address a new issue, namely the transparent concepts of non-access, non-transfer and non-availability of weapons of mass destruction (WMD) to non-State actors.

Thirdly, it should reflect the existing delicate balance within international instruments in this field regarding the obligations of all States parties on non-proliferation, disarmament and international cooperation for peaceful purposes.

Fourthly, the draft resolution should not need to invoke Chapter VII of the Charter, since Article 25 of the Charter provides that all decisions by the Security Council shall be accepted and carried out by the Member States of the Organization. If, however, a reference to Chapter VII is retained, we could accept that its scope of application be limited to the draft's first three operative paragraphs.

Fifthly, better language should be sought as regards the obligation contained in operative paragraph 2 to the effect that all States shall adopt specified laws. We strongly recommend that the text take into account the independence of national congresses in the exercise of their law-making power.

Finally, the committee envisaged by operative paragraph 9 should not carry out activities that may undercut the mandates of multilateral organizations established by treaty. We are waiting for further clarification by the sponsors on aspects related to the possible mandate, functions and composition of the committee. We are thus in the same position as that of the delegation of the Philippines.

I wish to reiterate that my delegation has high expectations as to the results of this open debate. This session will certainly allow us to understand the various viewpoints of the international community. For our part, we are ready to work towards a successful outcome — that is to say, an approach that effectively responds to this potential threat against international peace and security and that is considered to be

meritorious by the wider membership of the Organization.

Mr. Baali (Algeria) (*spoke in French*): I would like to thank the States who have called for a public debate on an issue that clearly concerns all Member States of the Organization, since it has to do with addressing the threat of the acquisition of weapons of mass destruction (WMD) by non-State players. It is, therefore, essential to face this threat as a united front, with optimal effectiveness and a full understanding of what is involved.

The possibility of terrorist networks pursuing illegal trafficking of technologies and material that could be used to produce WMD indeed constitutes a serious threat to the security of all of us. This should compel us to act without delay to prevent the irreversible from taking place.

This is why my country would like to express its full support for — and endorsement of — the goal set forth by the sponsors of the draft resolution of addressing this fearsome threat and filling the admitted gaps in international law. Indeed, there is nothing in international treaties that could fully protect us against the risk of WMD falling into the hands of terrorist groups.

In the absence of binding international standards, and because of the seriousness and the urgent nature of the threat, the response to it needs to be articulated and formulated by the Security Council. It is understood that, in shouldering this responsibility, the Security Council is acting in an exceptional manner, since, clearly, the Charter does not give it a mandate to legislate on behalf of the international community, but simply gives it the principle responsibility for the maintenance of international peace and security.

In accordance with Article 25 of the Charter, the Members of the United Nations will accept and implement the decisions that the Security Council will take in this area. From this standpoint, it does not even seem necessary for the Security Council to take action under Chapter VII. If it does, perhaps it should only do so for the three first paragraphs of the draft resolution, as my Brazilian colleague has just proposed. At the same time, and parallel to the implementation of the resolution that the Security Council adopts, an intergovernmental process aimed at finalizing an international legal instrument on this issue should be initiated and rapidly completed, perhaps in the Conference on Disarmament or elsewhere.

That being the case, I would like to recall that, with respect to the relationship between States and WMD, widely accepted treaties do exist. Their relevance and validity must be consolidated and, at the same time, reaffirmed. In this regard, it is useful to underscore that the draft resolution needs to limit itself to filling the gaps that exist in international law, that is, the relationship between WMD and non-State players. It should not create obligations for States that would be in addition to or compete with those that are provided for by the above-mentioned treaties, or that could weaken or modify the international regimes established by two of these treaties.

It is evident that the most effective way to counter WMD is to completely eliminate them. This is clearly the principal goal of the three basic treaties and their protocols, and thus States parties must scrupulously and fully implement the provisions of these international instruments.

From this standpoint, I believe it appropriate to recall that the five nuclear-weapons Powers did unequivocally commit to eliminate their nuclear stockpiles at the Sixth Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), over which it was my honour to preside in 2000, here in New York. The 2005 NPT Review Conference, the third preparatory session of which will begin next week here in New York, will undoubtedly offer us an opportunity to clearly assess the progress made in this area since 2000.

In other words, proliferation in all its aspects and disarmament are, for us, part of the same equation. This is why we believe that it is appropriate and necessary for this draft resolution to reaffirm the need to work towards disarmament.

Similarly, we believe that the emergence of WMD-free zones, based on freely agreed arrangements, would be an ideal contribution to non-proliferation, as the United Nations Disarmament Commission expressed very clearly in 1999. We also believe that this draft resolution must unambiguously reaffirm the legitimate right of States to peacefully use nuclear-related materials and technologies.

Lastly, the establishment of a monitoring committee, whose mandate must be determined in

advance, should include the provision of a sunset clause. It should also provide unequivocal support for existing disarmament mechanisms, the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons as key means of implementing the objectives of disarmament and non-proliferation.

Mr. Wang Guangya (China) (*spoke in Chinese*): The Chinese delegation welcomes this Security Council debate on the issue of non-proliferation. We believe it will undoubtedly help improve the draft resolution currently being considered by the Council. From the outset, we have supported holding such a debate at an early date.

Preventing the proliferation of weapons of mass destruction (WMD) and their means of delivery is conducive to the maintenance of international peace and security and is in the international community's common interests. For years, United Nations Member States have made important efforts in that regard. In the new international security environment, it is crucial to strengthen international cooperation aimed at developing and improving the existing international non-proliferation regime so that we can respond effectively to the threat of terrorism.

China opposes the proliferation of WMD and of their means of delivery, and we have taken an active part in international non-proliferation efforts. China has always advocated the complete prohibition and thorough destruction of all kinds of WMD. The fundamental purpose of non-proliferation is to maintain and promote international and regional peace, stability and security.

The proliferation of WMD and of their means of delivery has itself complicated factors that have everything to do with the international and regional security environment. Pursuing the universal improvement of international relations and accelerating fair and rational settlement of the security issues of the regions concerned will help to attain the goal of non-proliferation. At the same time, the role of the existing non-proliferation machinery should brought into full play, and proliferation issues should be resolved through dialogue and international cooperation. To effectively push non-proliferation efforts forward, we must guarantee the legitimate rights of all countries — including developing countries — to utilize and share dual-use scientific and technological advances and products for peaceful purposes.

China supports the United Nations in its efforts to play its proper role in non-proliferation, and we favour the adoption of a Security Council draft resolution in that area on the basis of broad consultations. The Chinese delegation has participated in the consultations on this draft resolution in an active, serious and responsible manner. China's proposals are reflected in the current draft, and a reference to interdiction was deleted at the request of the Chinese delegation. We are of the view that the current draft is an effort to enhance and strengthen international cooperation, on the basis of existing international law, and to deal with trafficking in WMD and their means of delivery and related materials by non-State actors, so as to prevent further proliferation of such weapons.

Non-proliferation is closely related to the interests of all countries, and it requires joint efforts on the part of all members of the international community. To gain the understanding and support of the overwhelming majority of the international community, it is essential that we ensure a fair, rational and non-discriminatory non-proliferation regime. Both the improvement of the existing regime and the establishment of a new one should be based on universal participation by all countries and on decisions made by means of the democratic process. It is, therefore, our consistent position that the opinions of all Security Council members and of the majority of United Nations Members must be fully taken into account and their reasonable proposals and suggestions reflected in the current draft resolution. That is essential in order to deepen international understanding and to move the international non-proliferation process forward.

We are pleased that the sponsors have made a number of amendments to the draft resolution on the basis of previous discussions in the Security Council. It is my belief and hope that, by means of today's debate, the Council will be able to draw on its collective wisdom to further improve the current text and that it will proceed to adopt a more comprehensive and balanced draft resolution by consensus.

Mr. Arias (Spain) (*spoke in Spanish*): My country endorses the statement to be made later by Ireland on behalf of the European Union. Spain has decided to co-sponsor this draft resolution because we

consider it essential to act urgently to fill a legal vacuum in which international disarmament and non-proliferation treaties and regimes do not sufficiently address the question of how to prevent access by non-State actors — particularly terrorists — to weapons of mass destruction (WMD).

The draft resolution's context is none other than the global fight against terrorism, and therefore Spain considers this exercise to be part of what began with resolution 1373 (2001). In that context, it is clear that we are confronting a grave and imminent threat to international peace and security: the possibility that non-State actors might gain access to WMD and sensitive materials. For that reason, my country believes that the Council is competent to act. We believe that, since the Council is legislating for the entire international community, this draft resolution should preferably, although not necessarily, be adopted by consensus and after consultation with non-members of the Council. Therefore, without prejudice to the — I daresay — unprecedented and intensive negotiations of the sponsors, Spain has always believed the holding of this formal open debate to be appropriate.

The most debated issues related to the draft resolution can be summarized in four points. The first issue is non-proliferation. The draft's objective is clear and limited. In no way does it attempt to modify international disarmament or non-proliferation objectives, which is clearly indicated in operative paragraph 11. Therefore, we believe that the term "non-proliferation", with the safeguard represented by that paragraph, is the most appropriate way to refer to the phenomenon we want to combat, since it clearly encompasses both the State and the non-State aspects. Therefore, proliferation cannot be qualified by limiting it to non-State actors, because obviously States can also proliferate WMD and supply them to non-State actors.

The second issue is disarmament. It is a fact that the various treaties alluded to in the draft resolution are disarmament rather than non-proliferation treaties and that disarmament and non-proliferation are closely inter-related concepts in international norms and practice. Clearly, disarmament can help to prevent non-State actors from acquiring WMD, but this draft resolution will in no way cause States possessing such weapons to comply more swiftly with their disarmament obligations under international treaties or cause non-parties to such treaties to accede to them. What is more, if we introduce too many paragraphs on disarmament into the draft resolution, we run the risk of diluting its objective. That does not mean we do not agree on substance, but we do not deem it appropriate to introduce too many disarmament references, because they are not appropriate in the context of the draft resolution. Therefore, my delegation is pleased that, for the sake of balance, a reference to disarmament was introduced into a preambular paragraph without diverting the draft resolution from its specific objective.

The third issue is Chapter VII of the Charter. Spain believes that the draft resolution is not intrusive — because it gives States leeway on how to internally interpret its implementation — and that it should be adopted within the framework of Chapter VII for two reasons: to make it unequivocally legally binding for all United Nations Members and to send a strong political message. In that context, I want to emphasize that Spain considers this exercise to be part of the fight against terrorism and a continuation of what began with resolution 1373 (2001), which was adopted within the framework of Chapter VII. It would therefore be hard to understand why one would not apply Chapter VII on this occasion.

We also understand that the draft resolution in no way explicitly or implicitly gives a blank check for the use of coercive measures, including the use of force, in cases of non-compliance.

Fourthly, as to the follow-up mechanism, Spain supports the creation of a Security Council committee entrusted with monitoring the implementation of the draft resolution and is flexible with regard to the duration of its mandate. The important thing is that it have sufficient time to fulfil its functions. In any case, six months would not appear to be enough. As has been noted concerning other Council committees, the committee should set its own terms of reference once it has been established.

We believe that this would be a standard committee of the Security Council, composed of all the members and operating on the basis of consensus, and whose functions would be very similar to that of the Counter-Terrorism Committee. In other words, it would be a committee governed by the principles of cooperation, equal treatment and transparency, and of which providing technical assistance to States would be an essential component. Furthermore and lastly, we

believe that it should have experts to assist its work. For most Permanent Missions, it would be impossible alone to process all the information to be provided by States under the draft resolution.

Mr. De La Sablière (France) (*spoke in French*): At the outset, my delegation wishes to associate itself with the statement to be made on behalf of the European Union by the representative of Ireland.

This public debate is taking place after several weeks of work, during which the sponsors went to great lengths to explain the draft resolution and closely listened to Member States within and outside the Security Council. This public debate is therefore taking place at the right time and we hope that it will prove constructive.

I understand that there may not be agreement on the details of all the elements of the draft resolution as it exists today, but I also understand from the consultations that there is broad agreement. We are clearly on the same wavelength. The very target of the text — non-State actors and the proliferation of weapons of mass destruction and their means of delivery — is the subject of broad agreement. Each of us is now aware of the aim of the text to fill a gap and to strengthen the non-proliferation regime by asking States to take the necessary measures, in particular following the latest proliferation crises. Each of us is aware of the gravity of the problem because we are now in an era of wholesale terrorism and in which the most dangerous technologies have become accessible and are being trafficked. Each of us is aware that we cannot remain passive.

As has been stressed by the European Union presidency, Europe is resolutely committed to strengthening the current non-proliferation system by adopting a strategy in that regard. Others are committed to that path, but, faced with this serious threat, the Security Council has a role to play, which it is doing through the draft resolution, based on the idea that the measures to be taken to counter proliferation activities are the responsibility of States. The Security Council cannot take those measures in their stead, but it can decide that they do need to take them.

That is what the text seeks to ensure in two specific areas: the criminalization of the activities of non-State actors and the establishment of security measures for sensitive materials, export and border controls, and the monitoring of export and transit brokering activities. The Council is establishing the goals, but it leaves each State free to define the penalties, legal regulations and practical measures to be adopted. The draft resolution does not establish those aspects. It does not compel any State to abide by the rules of instruments to which some States have chosen not to accede.

The sponsors clearly realize that the text will have even greater impact if it is understood by Member States outside the Council. They have therefore pursued broad consultations that have in particular led them to meet with the Non-Aligned Movement and other groups of States. That work has set the stage for today's debate and increases the chances of seeing it contribute to improving the text.

The consultations have forged broad agreement on the gravity of the threat and have enabled us to identify concerns. First, States have clearly expressed the desire to incorporate a reference to disarmament. Even if this draft resolution — which is exceptional and highly targeted — does not solve every problem, we understand that this issue is one of principle that is very important to many. We have therefore supported incorporating, at the beginning of the preamble, a reference to disarmament obligations.

In addition, many countries have sought and continue to seek clarifications on the follow-up mechanism; on the timetable for reporting, which has been deemed too brief; on the vague mandate of the Committee; on the operating period, which has also been deemed too brief; and on the unclear articulation of its relationship to the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW).

Lastly, there are widespread misgivings with respect to the reference in the draft resolution to Chapter VII of the Charter, which has sparked concerns about a potential use of force to ensure the draft resolution's implementation. I should like to allay that fear by addressing the problem in depth. We believe that we can mitigate this concern by enhancing the follow-up mechanism, which must protect the legitimate interests of States and coordinate Security Council cooperation with them.

I should like to explain first that we believe the reference to Chapter VII to be important for two reasons. The first is a legal reason, as the reference provides as a basis for the Council in this area the

notion that there is indeed a threat to international peace and security. The second is a political reason. Reference to Chapter VII reflects the seriousness of the situation and the resolve of the Member States. Having said that, I believe that we need to reconcile two messages.

The first is that there is a serious threat, which we need to meet with determination — hence, under Chapter VII. The second is that we are resolved to promote implementation based on cooperation and respect for the sovereignty of States and to preclude any coercion that is not justified, considered or authorized by the Council. France is particularly concerned to ensure such a balance and believes that the draft resolution does just that, specifically by virtue of the committee. We believe that it will go even further towards giving States the necessary assurances by providing that they submit their reports within an improved timetable; by stressing the possibilities for States that lack resources to be able enjoy international assistance; by explaining that the Committee will consider the reports on the basis of unanimity, with expertise from the IAEA and the OPCW; and by ensuring that decisions will be taken only by the Council itself. We believe that the Committee will be able to offer what is known in English as "due process", providing all safeguards to States.

France believes that this public debate will help the sponsors to spell out the provisions in this area with respect to the committee which is, so far, that part of the text that could be improved in terms of quality. We have all said that we advocate effective multilateralism. This text on weapons of mass destruction and non-State players is, above all, implementation of the idea of effective multilateralism on a subject that is of particular concern for all countries. And this is the belief that we have of the importance of what is at stake, which means that France will not hesitate to provide its support to this initiative and become a sponsor of the text.

Mr. Gaspar Martins (Angola): At the outset, I would like to express my delegation's appreciation for the convening of this open debate on the draft resolution on non-proliferation of weapons of mass destruction and on the threat it poses to international peace and security. The participation of the entire United Nations membership in this important debate ensures the need, or the needed collective vision, to address the existing gap in the current non-proliferation regime and represents a great value added to the work that the Security Council is currently undertaking.

The threat posed by terrorist organizations to international peace and security is an undisputed reality of contemporary life. To prevent the access of terrorists and non-State actors to weapons of mass destruction, related materials and their means of delivery is a new challenge to non-proliferation efforts and a recognized priority to be addressed by the international community.

The presidential statement adopted by the Security Council meeting at the level of the heads of State and Government in 1992, Security Council resolution 1373 (2001), and General Assembly resolutions concerning the need for strengthening multilateral arms control and non-proliferation regimes to combat international terrorism demonstrate the international community's awareness and commitment in addressing the threat posed by the proliferation of nuclear, chemical and biological weapons and their use by terrorists. The regime established by the Treaty on the Non-Proliferation of Nuclear Weapons is of particular relevance. Strengthening the effectiveness of the comprehensive International Atomic Energy Agency's safeguard system is another important contribution to such endeavours. The draft resolution subject of our consideration today takes stock of the disarmament concerns that should be strengthened by reaffirming the need for all Member States to fulfil their obligations in relation to arms control and disarmament in all its aspects.

The terrorist attacks on 11 September conferred a greater sense of urgency on the required common effort to prevent the ability of terrorist organizations to acquire nuclear, chemical or biological weapons. The mandate conferred upon it by the United Nations Charter entitles the Security Council to play the leading role in this global fight against terrorism. Accordingly, we welcome the Council's decision to consider the adoption of a resolution on these matters in the context of a widely felt urgency to fill the existing gap in international law relating to the current non-proliferation regimes in preventing chemical, biological and nuclear weapons and the means to deliver them from falling into the hands of non-State actors, especially terrorist groups.

By adopting resolution 1373 (2001), the Security Council took the unprecedented step of bringing into

force legislation binding all States on the issue of combating terrorism. The draft resolution which is the object of our consideration today, aimed at denying access of non-State actors and terrorists to weapons of mass destruction, is in accord with the objectives stated in resolution 1373 (2001). Its adoption will constitute a new landmark in the global fight against terrorism and in the ability of the Security Council to lead the fight against such threats.

We believe that open debates of the Security Council such as the one we are holding today are necessary and timely. They contribute to mutual understanding and to the broad expression of views on subjects of great importance to international life — outstanding issues such as the issue of arms control and disarmament and international nuclear cooperation for peaceful purposes. The follow-up mechanism on the implementation of the resolution and on the issue not yet resolved might be an object of creative approaches in today's debate whose outcome will surely be very useful for the improvement of the work on the draft resolution under consideration by the Security Council. I therefore commend you, Mr. President, for holding such a debate today.

The fundamental outcome in the process of the resolution's adoption is that the international community shares a common vision on this subject matter and that the Security Council reaches a strong consensus on the need and on the provisions of the resolution to be eventually adopted.

Mr. Muñoz (Chile) (*spoke in Spanish*): May I first of all express my delegation's thanks to you, Mr. President, for having convened this open meeting, so that we can discuss, with the participation of all members of the United Nations that are interested in this subject, the issue of the non-proliferation of weapons on mass destruction in the hands of non-State actors or terrorists. We are interested in hearing the opinions of other delegations and we have said this many times, so we are delighted that this meeting has been convened.

Chile resolutely supports all universal and regional instruments for disarmament, weapons control and non-proliferation, and we attach particular importance to those that prohibit complete categories of weapons of mass destruction. My country firmly supports efforts being made in the framework of the United Nations to ensure and strengthen implementation of these instruments. We attach special importance to the legitimacy that is provided by negotiations in a multilateral framework. At the same time, we regret the fact that obstructionist use of the rule of consensus has thus far impeded the adoption of such important mechanisms as the protocol for the verification of the Biological and Toxin Weapons Convention or agreement on a treaty for the prohibition of the production of fissionable materials for military purposes.

Chile recognizes that well-established multilateral forums have not made full use of all the effective means available to States to provide legal guarantees in the face of threats to international security. For that reason, my delegation firmly supports the International Code of Conduct against Ballistic Missile Proliferation — the Hague Code of Conduct — which addresses also the means of delivery of weapons of mass destruction. It is a politically binding instrument that was negotiated and is implemented within the framework of a broad group of like-minded countries.

We believe that a binding Security Council resolution on weapons of mass destruction, addressing non-State actors and terrorists, would effectively buttress those other international instruments on weapons of mass destruction and would constitute an appropriate measure with respect to their implementation, both in terms of international peace and security and as concerns the specific issue at hand.

We reiterate that, despite its specific and limited objectives, such a resolution would be relevant to both non-proliferation and disarmament issues. The existence and proliferation of weapons of mass destruction and the means of manufacturing and delivering them constitute a source of danger that we are seeking to prevent. The affirmation that nuclear, chemical and biological weapons in themselves pose a threat to international peace and security is the main premise underlying international agreements on the prohibition and non-proliferation of weapons of mass destruction, such as the Treaty on the Non-Proliferation of Nuclear Weapons, the Treaty of Tlatelolco and the Conventions on chemical and on biological weapons. It is also the key premise of the thinking behind the draft resolution under discussion.

In the face of the gravity of recent acts of terrorism, we believe that the Security Council must act without delay; it must take all possible timely

measures within its power under the Charter. Such measures would not prevent States from, at the proper time, negotiating international instruments that would contribute to a legal framework countering this threat.

We agree that it would be appropriate to act under Chapter VII of the Charter. The draft resolution under discussion contains provisions whose implementation would not include enforcement action. My delegation therefore feels that it would be appropriate to clarify this and explicitly include it in the text that will be put to the vote, including the possibility of applying Chapter VII to only certain operative paragraphs. Moreover, we consider that a follow-up committee must be created taking into account the existence and powers of other bodies and international institutions in the field of the control of weapons of mass destruction, thus enabling the committee to function in coordination with them. The powers of such a committee would have to be stated clearly in the resolution; we believe it should be established for a two-year period, which would give States a realistic period of time to adopt national legislation under their respective legal systems.

Finally, we reiterate our constructive, positive position on the draft resolution under discussion on this item. Because this is a highly important and complex matter, it must be considered carefully; we believe this is important so that the final text will, to the extent possible, command universal acceptance within the international community — which will have to implement it — and, of course, so that the Security Council can adopt it by consensus.

Mr. Thomson (United Kingdom): I should like to associate my delegation with the European Union statement to be delivered later in this debate by the representative of Ireland.

This open debate marks a further stage in what has been an unprecedented effort to discuss and consult with the United Nations membership with respect to the important draft resolution under discussion. My delegation has been encouraged by the constructive discussions held so far with both members and non-members of the Council, by the helpful ideas and suggestions received, by the opportunity to discuss and, I hope, allay concerns and by the almost universal acceptance that we must act now to tackle the threat of weapons of mass destruction falling into the hands of terrorists and other non-State actors. We look forward to listening carefully to the views that will be expressed today.

The recognition that we need rapidly and effectively to deal with this threat could not be more justified. Osama bin Laden has called it a "duty" to obtain nuclear weapons. His networks have experimented with chemicals and toxins for use in attacks. In Afghanistan, Al Qaeda trained its recruits in the use of poisons and chemicals, while manuals for the manufacture of deadly substances were widely distributed. The sarin attack on the Tokyo metro and the anthrax attacks in the United States in the autumn of 2001 showed that there are individuals capable of and willing to use these terrible indiscriminate weapons, and showed the seriousness of even a relatively small attack.

It is clear that in the face of this urgent threat only the Security Council can act with the necessary speed and authority. My delegation believes that, in such circumstances, not only is it appropriate for the Security Council to act, it is imperative that it do so. The Council has a responsibility to respond to this threat to international peace and security.

It is in that context that the United Kingdom and the other sponsors proposed the draft resolution currently before the Council, on which I would like to make just three points.

My first point is that the draft resolution does not negate the importance of disarmament or of the multilateral treaty framework. In response to the concerns of many delegations, the draft resolution now makes clear the importance of arms control and disarmament obligations. We agree with others here that progress on these issues is important and should be pursued in the appropriate forums. At the same time, however, the sponsors have always been clear that the focus of this draft resolution must remain the problem it is trying to tackle: the issue of the proliferation of weapons of mass destruction (WMD) and non-State actors. Bringing in too many additional issues would, to be frank, risk deadlock. It would also risk treading on the toes of competent bodies such as the First Committee of the General Assembly, the Conference on Disarmament and the review process of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The draft resolution does not undermine in any way the importance of disarmament; it is just that disarmament is not its primary focus.

Nor does the draft resolution negate the importance of existing multilateral arrangements. The draft resolution in fact promotes the universalization and strengthening of multilateral treaties and makes clear that it will not conflict with those regimes. It does not rule out future arrangements to deal with the current gap in the multilateral framework. But the draft resolution and the urgently needed implementation of it should not be held hostage to the uncertainty over how long such arrangements would take to negotiate, how comprehensive they would be or whether agreement would be reached at all.

My second point is that the draft resolution is not about coercion or enforcement. Many delegations have raised questions about the Chapter-VII legal base for the draft resolution and about what that implies. In our view, this legal base simply reflects the fact that we are dealing with what is clearly a threat to international peace and security, and we are therefore operating under the part of the Charter that covers international peace and security. It would send an odd message if the Security Council were to act on any other basis.

A Chapter VII legal base also underlines the seriousness of our response to this issue and the binding nature of the requirement to establish sensible WMD controls. It will give States the increased authority they need to introduce robust domestic measures, and it leaves it up to Member States to decide exactly what steps they need to take.

What this draft resolution does not do is authorize enforcement action against States or against non-State actors in the territory of another country. The draft resolution makes clear that it will be the Council that will monitor its implementation. Any enforcement action would require a new Council decision.

My third point is that the draft resolution is instead about a cooperative approach to tackling the threat of weapons of mass destruction and non-State actors. The draft resolution, for example, explicitly encourages technical assistance to countries that may need held in putting in place sensible controls on access to WMD materials. It also sets up a Council subcommittee. As is usually the case, we expect that that committee will determine its exact mandate, acting under consensus and involving all Council members. We see the committee as the heart of a cooperative approach, allowing countries to compare experience, to establish best practice and to identify areas where technical assistance is needed.

We believe the committee would need to draw on appropriate expertise and to consult closely with the wider United Nations membership. We also believe that, given the time Member States would need to implement the draft resolution, the committee should have a two-year mandate to allow for a meaningful cooperative process.

We do not, however, see it as necessary for legislation or executive action to have been completed by Member States before they first report, as called for by the draft resolution. Indeed, Member States that already have strong laws and controls in this area may not need to take additional measures.

In conclusion, this draft resolution is all about effective multilateral action to deal with a real threat to international peace and security. The cooperative action and inclusive measures it envisages can help prevent a tragedy. We should not have to wait for such a tragedy in order to act. The United Kingdom hopes that members of the Council will embrace this collaborative multilateral action.

Mr. Adechi (Benin) (*spoke in French*): I would like to thank the States that have requested the holding of this open meeting, which makes it possible for us to open to all Member States the debate on the danger of the acquisition and use of weapons of mass destruction (WMD) by non-State actors. This danger relates above all to the emergence of non-State actors that vie with States for dominance in the area of violent force, a new phenomenon, a phenomenon that also highlights the existence of a legal void in the arsenal of contemporary international law and that calls for the community of nations to cooperate without delay to provide the means to prevent the danger.

The Security Council, aware of its responsibility, through the sponsors of the draft resolution, has moved to the forefront and has begun negotiations for the establishment of a plan that can mobilize the community of States with a view to concerted action in this field. My delegation will contribute to the search for a consensus on the ways and means of achieving that goal.

We are convinced that the Council must do everything in its power to eliminate this danger, a danger that no one can disregard today, following the

sarin gas attack in the Tokyo subway in 1995 and the threats that international community has faced since the attacks of 11 September 2001. These sad events have demonstrated that the worst is possible and that it can take forms that were unimaginable until now.

We must reach agreement on the proper equation for rational means to be found to face this situation within the framework of collective security established under the Charter. In the common effort to find good solutions to effectively address this phenomenon, we believe it is important that action to prevent access to weapons of mass destruction by non-State actors must be part of the broader effort to promote disarmament. It seems to us that the problem of access to weapons of mass destruction by non-State actors resides in the incomprehensible and unacceptable accumulation of weapons of mass destruction.

The draft resolution before us is submitted under the provisions of Chapter VII of the Charter. We believe that Chapter VII is a collection of Articles that provide ways of countering imminent threats to one or more States in which the various rules on dispute settlement under Chapter VI have been exhausted. We have noted and heard proposals, as well as the idea of the sponsors, on the need to place the draft resolution under Chapter VII. Efforts have been made to dispel concerns of parties on the question, but we believe that certain aspects of those concerns remain, particularly those related to the question of legitimate self-defence. It seems important to us that in the draft resolution the scope of Chapter VII be reduced to certain obligations of States, particularly those contained in the three Articles to which some delegations referred in the course of our debate today.

The draft resolution would also benefit from underscoring the need for treaty organizations whose objective is non-proliferation to negotiate additional protocols as soon as possible, in order to fill the legal void that we deplore today regarding non-State actors. We also attach great importance to the establishment of a follow-up committee, especially with consideration of its mandate and duration. We are prepared to discuss these matters with other delegations.

The negotiations for the adoption of the draft resolution thus far have been conducted in an open spirit to make the process as inclusive as possible. We want that spirit to continue so that the draft resolution will have the broadest possible support. That is why we will follow very attentively the contribution of delegations of non-members of the Council to this debate.

Mr. Motoc (Romania): Romania aligns itself with the statement that will be delivered later on by Ambassador Ryan of Ireland on behalf of the European Union. In addition, I would like to make the following remarks.

First, we appreciate the opportunity presented by this open debate, its timeliness and usefulness in our overall efforts to consensualize the adoption of this draft resolution and to improve conditions for its later sound implementation.

The proliferation threat has assumed a gloomier dimension: the prospect of non-State actors seeking to acquire and use weapons of mass destruction (WMD).

Present-day security and stability are seriously challenged, both globally and regionally, by the risk associated with the proliferation of weapons of mass destruction. State and non-State actor proliferation routes are now starting to merge. Today, the international community is confronted with a consolidated network of proliferators established among States and entities located in regions marked by instability and armed conflict. The possibility of terrorist organizations acquiring elements or even systems of WMD is largely recognized today as among the most dangerous threats — if not the most dangerous threat — the international community is facing.

There is no panacea or one-size-fits-all policy to counter the threat posed by the proliferation of WMD. A number of tools are at the disposal of the international community. All are necessary; none is sufficient by itself.

The spread of nuclear, chemical and biological weapons has been successfully limited by international disarmament and non-proliferation multilateral agreements. But, unfortunately, the new phenomenon, intimately interconnected with terrorism, is not covered by those treaties.

The Security Council has the primary responsibility for maintaining international peace and security. Past experience in dealing with newly magnified threats such as terrorism shows that prevention is always better than the cure. It is therefore time for the Security Council to address this new threat

in an appropriate manner by filling the existing gap in international treaties. This is one threat the Council cannot afford to overlook or fail to act upon.

The draft resolution will make a fundamental contribution to the efforts of all responsible members of the international community to address threats stemming from the proliferation of WMD, especially its most dangerous form — the pursuit of weapons of mass destruction by non-State entities and terrorist groups and organizations. For that reason, Romania decided to be a sponsor of the Security Council draft resolution.

The draft is, indeed, a platform for inducing greater responsibility by all States in reducing proliferation risks. At the end of the day, it can only create a better and more secure environment for all of us. It asks Member States, without discrimination, to enact and enforce appropriate legislation to prevent the proliferation of WMD, including criminal and civil penalties for violations of export control regulations. It also requires the establishment of physical protection measures and effective controls over related materials. For such a preventive approach to work, the need for international cooperation is capital. It requires the establishment of national authorities and the adoption and enforcement of relevant domestic legislation.

While addressing a very specific and focused issue, the draft resolution reaffirms the need for all Member States to fulfil their obligations in arms control and disarmament and upholds the multilateral treaties.

Efforts for combating proliferation have to be deeply rooted in the domestic implementation by States of their obligations and in the permanent enforcement of adequate related legislation on matters such as export controls and the physical protection, secure manipulation and transfer of sensitive materials.

The draft resolution's implementation will not affect the obligations undertaken by States parties to international treaties nor the statutory responsibilities of the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons. Efforts to prevent proliferation, undertaken at the national, regional or international levels, through enhanced coordination, do not hamper the transfer of materials, equipment and technology for peaceful purposes.

The critical importance of the draft resolution and its contents was demonstrated by the extensive consultations and exchanges that took place within and outside the Council. They were complemented by a transparent and constructive interaction with individual Member States and regional and political groups. Most of the concerns expressed during our deliberations have been reflected in the text. We are satisfied that all those strenuous efforts made possible a substantial improvement of the draft and clarified how we can ensure the optimal materialization of its fundamental goal.

The objective of the draft resolution is very important. Its aim is very high. If our aspiration is to get rid of the scourge of the proliferation of WMD and prevent self-destruction, we have to act accordingly, in a united and responsible manner.

Mr. Akram (Pakistan): Pakistan endorses the statement that will be made later by Malaysia on behalf of the countries of the Non-Aligned Movement.

There is a universal desire to prevent the horrors that would result from the use of chemical, biological or nuclear weapons. Historically, the proliferation of weapons of mass destruction (WMD) has occurred when States have sought to acquire those weapons to address perceived threats to their national security. But non-State actors have often, not only in the recent past, been the instruments of proliferation by States seeking WMD. Recently, Pakistan detected and dismantled such a proliferation network involving our nationals and those of a number of other countries.

The fear that non-State actors themselves may acquire and use weapons of mass destruction is a recent phenomenon. That danger is present, but it must be viewed in perspective. Terrorist organizations and non-State actors could feasibly acquire chemical and biological weapon capabilities. The acquisition and use of nuclear weapons by non-State actors is much more difficult and much less likely. I think the example of Osama bin Laden underlines not only that danger but also the fact that WMD are difficult for terrorist organizations to acquire. That is especially true with respect to nuclear weapons. The existing treaty regimes can address most of the threats that have been raised in the context of the proliferation of WMD.

Pakistan is a nuclear-weapon State. We have established effective command and control and physical security of our nuclear assets, sites and

materials. We are improving our export controls. We can thus readily fulfil the actions that are desired in operative paragraphs 1, 2 and 3 of the draft resolution.

But seen from a historical, legal and political perspective, the draft resolution initiated by some permanent members of the Security Council and negotiated for five months by the five permanent members, raises a number of doubts, questions and concerns.

Pakistan believes that the first question is whether the Security Council has the right to assume the role of prescribing legislative action by Member States. The existing treaties, the Chemical Weapons Convention (CWC), the Biological Weapons Convention (BWC) and the Nuclear Non-Proliferation Treaty (NPT), already prescribe most of the legislation that would cover proliferation by both State and non-State actors. These regimes can be improved, if and where necessary, through negotiations among sovereign and equal States. In particular, it is necessary to implement the obligation imposed by the CWC regarding the destruction of all chemical weapon stocks, and biological weapons must be addressed through the adoption of the verification protocol, which was negotiated for eight years and summarily rejected.

The Security Council, where five States, which retain nuclear weapons, also possess the right veto any action, is not the most appropriate body to be entrusted with the authority for oversight over non-proliferation or nuclear disarmament.

Secondly, there is a discrepancy between the professed objective of the draft resolution and its provisions. Although the resolution is designed to address proliferation by non-State actors, it seeks to impose obligations on States. There are grave implications to this effort by the Security Council to impose obligations on States, which their Governments and sovereign legislatures have not freely accepted, especially when some of these obligations could impinge on matters relating to their national security and to their right of self-defence.

Thirdly, there is no justification for the adoption of this resolution under Chapter VII of the Charter. The threat of WMD proliferation by non-State actors may be real, but it is not imminent. It is not a threat to peace within the meaning of Article 39 of the United Nations Charter. A legitimate fear arises that when one sees the draft resolution under Chapter VII, with language such as that used — "to combat by all means" — an authorization is being sought which could justify coercive actions envisaged in Articles 41 and 42 of the Charter, including the use of force.

Fourthly, this fear is exacerbated by the open-ended nature of the draft resolution. It provides for further decisions, in operative paragraph 10. Thus the scope of the draft resolution could be enlarged beyond non-State actors. Such further decisions, if taken under Chapter VII, could authorize coercive measures against State and non-State actors, beyond national jurisdiction.

Fifthly, the creation of a Security Council committee, in operative paragraph 9, is unnecessary. Its functions are unclear and unspecified. It could be utilized in the future to replace the role of existing treaty regimes. Nor can the "non-papers" informally circulated by some States be ignored, which imply that the committee could be used to harass countries, and even demand explanations regarding "why they are not parties to the NPT".

Sixthly, the definitions provided in the footnote of the draft resolution are entirely unclear. Are missiles, rockets and unmanned aerial vehicles the only means for the delivery of WMD? Who will judge whether or not they are designed for this purpose? What is meant by the term "related materials"? The list prepared by closed regimes such as the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG) or the Australia Group cannot automatically be accepted by or imposed upon States that are not parties to these regimes.

In the informal consultations held on the draft resolution, the sponsors had publicly assured that the scope of the draft resolution is restricted to stopping proliferation by non-State actors — and that is why is does not encompass disarmament; that no enforcement action is envisaged — much less the use of force; that implementation will be done by States themselves, through national measures; that the committee will merely collate and submit the reports from Member States and is being set up for a temporary period; and that the draft resolution does not preclude the negotiation of treaties or agreements to address the issue of proliferation by non-State actors. However, in the negotiations that have been held so far, the sponsors have been reluctant to reflect most of these assurances in the text of the draft resolution. Recent

remarks appear to have retracted some of these assurances.

Pakistan hopes that this debate will contribute to demonstrating the wide spectrum of concerns and doubts that relate to the draft resolution and that it will hopefully convince the sponsors to be more responsive to these concerns. We continue to hope that the Council will be able, through painstaking consultations and negotiations, to adopt this draft resolution by consensus.

The President: I now give the floor to the representative of the Russian Federation.

Mr. Gatilov (Russian Federation) (*spoke in Russian*): We welcome the convening of this public meeting of the Security Council to discuss a pressing problem related to the threat of the proliferation of weapons of mass destruction (WMD). We anticipate that today's discussion will allow us to strengthen the unity of the international community in facing this threat. The Russian Federation was one of the initiators of tabling a relevant draft resolution of the Security Council. We believe that the subject of the non-proliferation of WMD and means of delivery is becoming one of the primary threats to international peace and security.

The world community is called upon to increasingly and actively address fundamentally new challenges in this area and to counter heretofore unknown but equally complex challenges. The tragedy of 11 September 2001, as well as the terrorist attacks that have occurred in Moscow, Madrid, Tokyo, and in a number of other cities around the world, demonstrate very clearly what is perhaps the primary threat of our time — terrorism.

The Security Council adopted a proactive role in countering this threat by adopting its well-known resolution 1373 (2001). In this decision, the Council highlighted the close relationship between international terrorism, organized crime, and illegal trafficking of nuclear, chemical, biological and other materials that pose a threat to human life. It also called for coordinating efforts at the national, subregional and international levels in order to strengthen the global response to the challenges and threats to international security.

Particular attention should be given to the problem of the existence of black markets of WMD, which are the most dangerous markets. Terrorists are inventive and will stop at nothing to acquire components to produce WMD in order to strike totally innocent people. The draft resolution directs States to preventing WMD and materials that are sensitive from the standpoint of proliferation from falling into the hands of non-State actors, above all for terrorist purposes. The draft resolution guides the development of international cooperation efforts to counter this phenomenon. Clearly, we believe that all the efforts in this area should be based on international law and national legislation, without impeding legitimate, peaceful cooperation efforts.

It is here that we see the substance of this draft, which was prepared after lengthy expert consultations, both among the five permanent members and by taking into account discussions with the non-permanent members of the Council, as well as a broad range of United Nations Member States. The sponsors did not seek to supersede, by a Security Council decision, international treaties in the area of non-proliferation and disarmament. This is precisely why the draft resolution contains provisions clearly pointing out that its adoption in no way undermines or runs counter to obligations that States may have under the international treaties in the area of non-proliferation and disarmament to which they are parties.

We believe that the Security Council is not only entitled but also obligated to take appropriate measures in the area of international security, to include those that are legally binding. This draft resolution is no exception. As such, exactly nine years ago, in April 1995, the Council adopted resolution 984 (1995), which provided for security safeguards in the case of an attack on States, including with the use of nuclear weapons. This resolution, at the same time, took note of the security safeguards provided by the nuclear Powers with respect to the non-use of nuclear weapons.

Clearly, monitoring the implementation of the draft resolution requires establishing an ad hoc mechanism. We support the establishment of a Security Council committee on this issue, which would be engaged in collecting and analysing the responses of Member States with respect to the measures they have taken in implementation of the resolution and with respect to possible assistance to those States, when relevant requests are made. We believe that the committee will need to work in close cooperation and use the expert support of such agencies as the

International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons, as well as of the United Nations Secretariat. The duration of its work will, above all, depend on how it implements the goals set for it. In this regard, we believe that the minimum time period would be one year.

We call on all States to support the Security Council draft resolution on countering the proliferation of weapons of mass destruction.

Mr. Cunningham (United States of America): Thank you, Mr. President, for organizing this discussion today and for giving us an opportunity to address the entire membership on this vitally important subject and on the draft resolution before the Council.

In September of last year, President Bush came to the General Assembly and said that, because proliferators will use any route or channel open to them, we need the broadest possible cooperation to stop them. He asked the Security Council to help by adopting a resolution that would be effective in the fight against proliferation and against terror. The same day, Secretary-General Annan, in his address to the General Assembly, said that all of us know that there are new threats that must be faced, or perhaps old threats in new and dangerous combinations, new forms of terrorism and the proliferation of weapons of mass destruction (WMD). He added that terrorism is not only a problem for rich countries; ask the people of Bali, Bombay, Nairobi or Casablanca. We agree with that assessment. A terrorist use of WMD would punish all of us, strong and weak alike.

The draft resolution that the Security Council will adopt in the coming days responds to what all agree is a real and growing threat to global peace and security: the proliferation of nuclear, chemical and biological weapons, their means of delivery and the ability to produce them. This is especially true with regard to non-State actors, including terrorists. Were non-State actors and outlaw regimes to possess these weapons and the means to deliver them, they would be able to blackmail and create chaos in entire regions. Terrorist groups such as Al Qaeda have shown their readiness to kill thousands, and they do not hide their desire to acquire WMD and their means of delivery in order to increase that number many times over. If such a group acquired these weapons, they would be used to bring sudden disaster and suffering on a scale that we can scarcely imagine.

The problem is not just with the weapons themselves, it is with the ability to produce them. The international community has also become aware of the existence of sophisticated international black market efforts to buy and sell the plans, technologies and materials required to build these weapons, making them available to the highest bidder. Thus the threat that the Security Council is addressing is both clear and present.

The draft resolution under discussion has a forward-looking focus, it sets a standard for how nations should act in the future rather than judging past actions. It reinforces an objective of vital interest to all: that proliferation cannot be tolerated. We must act now to stem this threat and the draft resolution soon to be adopted by the Council is the fastest means to address it. It asks Member States to take precautions to ensure that WMD and their technology are properly controlled. It asks Member States to review their domestic controls and to strengthen them if needs be. It also asks Member States to review domestic legislation and adopt appropriate and effective laws to keep dangerous items out of the hands of non-State actors, that is, those not authorized by the State.

The goal of this draft resolution is to halt dangerous traffic by directing Member States to make illegal the unauthorized trade in these weapons, their means of delivery and the plans, technology and materials needed to develop and build them. It asks them to do this by strengthening their national export and trans-shipment controls and by providing for the physical protection of sensitive materials within their borders. The desirability of taking these steps is self-evident, we hope.

We have been careful to make clear that this draft resolution is in no way meant to undermine, undercut or otherwise weaken the existing treaties and regimes, and there is specific language in the draft resolution to that effect. The draft resolution is placed under Chapter VII in order to send the important political message of the seriousness with which the Council views the threat to international peace and security. It also is placed under Chapter VII because the Council is acting under that Chapter and levying binding requirements. However, the draft resolution is not about enforcement.

As others have noted, the text of the draft resolution has been revised and the current text is dated 15 April. Revisions to the original text introduced by the sponsors reflect the useful discussion we have had in the Council and the many informal exchanges the sponsors have had with the wider United Nations membership. The text has been improved by the opinions and ideas that have been shared with us. For example, the revised text includes the recognition of the importance of disarmament obligations. While preserving language that makes clear the fact that the draft resolution is not meant to undermine or be at cross-purposes with existing treaties and regimes, the revised text also makes clear that Member States not parties to treaties or regimes will not be forced, through this draft resolution, to adopt them. Language on the usefulness of peaceful dialogues has also been made more prominent.

While discussion on a follow-up mechanism continues, I would note that the follow-up committee will establish its own programme of work upon its creation, and that this is standard practice for Security Council committees. As is also standard practice, it will be composed of all members and operate under consensus.

I would also call attention to the language in operative paragraphs 4 and 5 of the draft resolution. Both of these paragraphs have been included in the draft resolution to make clear that Member States who find they would like assistance in implementing this draft resolution may voluntarily request it. To be clear, we are not expecting that Member States will necessarily be able to report the complete implementation of the resolution when they report to the committee.

In conclusion, the United States and the sponsors welcome the views that we are hearing and those that we will hear later on today. This is an important issue, and we value this discussion as part of our ongoing consultations.

The President: I shall now make a statement in my national capacity.

The proliferation of weapons of mass destruction (WMD) in all its aspects, including those regarding non-State actors, is a major threat to international peace and security. Countering this threat requires a continuous common effort by all United Nations Member States and relevant bodies. By actively participating in today's debate, a great number of Members are demonstrating their determination to live up to the challenge and to contribute to the search for the best solution.

Germany is fully committed to countering this threat. Our views are reflected in the European Union's Strategy against Proliferation of Weapons of Mass Destruction, which is based on the conviction that disarmament, arms control and non-proliferation are mutually reinforcing aspects of the same comprehensive, cooperative approach.

We fully subscribe to the forthcoming statement by the presidency of the European Union.

We hope that the new resolution will provide a useful tool to prevent access by non-State actors to weapons of mass destruction and to hazardous materials. We therefore support it and hope that it can soon be adopted. However, together with all other Council members, we are trying to further improve the draft resolution. That would increase its acceptance and thereby contribute to its full and global implementation.

I would like to make three points in that context. First, the multilateral treaty regime provides the normative basis for all non-proliferation efforts. That is why the implementation, the universalization and, where necessary, the strengthening of existing multilateral disarmament and non-proliferation agreements are essential. We have therefore suggested the inclusion of meaningful references to disarmament. Disarmament and non-proliferation are two sides of the same coin. The fewer weapons exist, the better they can be controlled and kept safe from misuse and proliferation. In addition, we strongly believe that every effort must be undertaken to ensure effective verification of compliance with the multilateral treaty regime. That could also be reflected in the draft resolution. The same is true of security assurances, which are an important part of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) regime.

Secondly, as the resolution will be binding on all Member States, the Council as a whole must remain the final arbiter of compliance. Any necessary enforcement action must be subject to a specific decision by the Council as a whole, without interfering with the mandates of relevant institutions or of other bodies established under international treaties or arrangements.

Thirdly, a follow-up mechanism in the form of a Security Council committee, based on a clear two-year mandate, should be established in order to assist the Council in its efforts to ensure both a transparent dialogue with States and an even-handed approach. This committee should work in cooperation with other competent bodies such as the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Council's Counter-Terrorism Committee. In our view, that would enhance its efficiency and credibility.

To conclude, let me underline the fact that the Security Council has, in the context of counter-terrorism, already dealt with some key aspects contained in the present draft. In operative paragraph 2 (a) of resolution 1373 (2001), the Council decided, inter alia, that "all States shall ... eliminat(e) the supply of weapons to terrorists". In operative paragraph 7 of resolution 1456 (2003), the Council, at the ministerial level, underlined "the importance of fully complying with existing legal obligations in the field of disarmament, arms limitation and non-proliferation and, where necessary, strengthening international instruments in this field".

The draft resolution before us should be made an important step in our common endeavour to prevent non-State actors, and terrorists in particular, from gaining access to weapons of mass destruction or to hazardous materials. The draft resolution should complement the existing system of international instruments of global disarmament, arms control and non-proliferation. We must not forget that this multilateral treaty regime retains its full validity and relevance and that that regime is the core instrument for the preservation of international peace and security. The obligations contained therein must be fully honoured and further developed.

I now resume my functions as President of the Security Council.

Before giving the floor to the next speaker, I would like to make a short procedural remark, because we started our meeting a bit early today and not everyone was here at the outset. I should like to reiterate that the Council agreed that all those taking the floor should limit their statements to four minutes in order to give all other speakers an equal chance to make their views known, given the fact that more than a quarter of the United Nations membership will speak at this meeting. We kindly ask delegations that have prepared longer statements to circulate the texts in writing and to present a condensed version in the Council Chamber. I thank members for their cooperation.

I now give the floor to the representative of Canada.

Mr. Laurin (Canada) (*spoke in French*): Thank you, Mr. President, for organizing this debate and for giving us the opportunity to speak on this important issue. I am convinced that our discussions today will reaffirm the international community's resolve to work together to put an end to the proliferation of weapons of mass destruction (WMD) and to promote measures to strengthen our collective security.

We want the United Nations, including the Security Council, to continue devoting attention to this issue in order to help all Member States to fulfil their obligations with regard to non-proliferation, arms control and disarmament norms — norms whose objectives are universal and whose implementation is nearly so.

The Council has shown its leadership in addressing a new challenge arising in a transformed world security environment, namely, the threat of non-State actors seeking to acquire, develop, transfer or use WMD. We would strongly support any resolution that would facilitate important efforts by States to criminalize trafficking in such weapons.

(*spoke in English*)

It is equally important that a draft resolution on this subject show clarity and balance. The Council should ensure that definitions and concepts are clear, that Member States fully understand the measures that they are being called upon to undertake and that the Council's role — as well as the roles of other international bodies, such as the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons — are well understood.

Canada supports the establishment of a committee to monitor implementation of this resolution. Given the gravity of the challenge before us, the committee's duration should be long enough to allow it to effectively carry out its mandate and to meet the objectives set out by the resolution. A six-month limit

could handicap the committee by imposing impractical deadlines.

We should also recall that the aims of the international treaties that underpin our non-proliferation efforts are first and foremost to achieve effective progress toward general and complete disarmament, including the prohibition and elimination of all types of weapons of mass destruction. The draft resolution should recognize this important balance and equal emphasis on non-proliferation and disarmament obligations.

Canadians recognize the importance of the Council's addressing the issue of proliferation of WMD and the threat it poses to international peace and security. Canada strongly supports a draft resolution that will help us confront the proliferation challenge, that respects the rights and obligations of States under current international treaties and that encourages the international community to use its energy and creativity to improve and build on the complex structure of non-proliferation, arms controls and disarmament regimes and mechanisms that have been established over the past 50 years.

In closing, we encourage the Council to continue its consultations with Member States and to adopt a constructive draft resolution that attracts broad support and leads to effective implementation.

Mr. De Rivero (Peru) (*spoke in Spanish*): Allow me at the outset to congratulate you, Sir, on having convened this open debate of the Security Council on a subject of great importance: the draft resolution on the non-proliferation of weapons of mass destruction to non-State actors.

Peru entirely shares the concern of all countries that weapons of mass destruction could fall into the hands of non-State actors. To a certain extent, we also recognize the gaps in the current international regime, which is binding solely on States. That is a fact we acknowledge. My country is fully aware of what it means to be the victim of terrorist attacks and in that regard understands the fears about the possible use by terrorists of weapons of mass destruction, which have led to the submission of this proposal.

We do not believe, however, that we ought therefore to forget the quid pro quo between the current international non-proliferation regime and disarmament. A draft resolution advocating the non-proliferation of weapons of mass destruction should not be isolated from the issue of nuclear disarmament. Those concepts have been united since 1965.

I reiterate that there are gaps in the current non-proliferation regime with respect to non-State actors. If the intention is to establish a more rigid, stricter non-proliferation regime, that gap should be bridged, but not to the detriment of disarmament. We also believe that, in the final analysis, a regime intended to be stricter and to apply to non-State actors must not be established to the detriment of countries' ability to legislate in that area through an international treaty on an equal footing.

We believe that the current text of the draft resolution remains ambiguous in its following elements. First, it is not clear with regard to sanctions or coercive measures that may be taken in cases of non-compliance. Secondly, it does not include a specific list of materials for the production of weapons of mass destruction that are subject to control, which could lead to conflicting interpretations. Thirdly, it raises a number of questions regarding follow-up and monitoring mechanisms.

I know that Peru's concerns are shared by many States. In that connection, we believe that consultations must continue in order to arrive at a realistic, well-balanced solution. It should be very clear that my country has no argument with the idea that there is an urgent need for concrete action, given the threat posed by the relative ease with which non-State actors can gain access to weapons of mass destruction. We believe, however, that the adoption of the text before us should be subject to further consultations in order to ensure broader support. A critical mass of countries must support the draft resolution in order to give it legitimacy, which is always necessary in countering terrorism.

Mr. MacKay (New Zealand): There can be no doubt that weapons of mass destruction are a threat to international peace and security. They are a legitimate subject for consideration by the Council and we welcome its attention to the issues involved.

We support the draft resolution's aim of controlling the horizontal proliferation of weapons of mass destruction to non-State actors. None of us wants to see terrorists get their hands on these weapons or on materials that would allow their construction. It is unfortunate that, to date, there has not been sufficient

will to see the existing multilateral disarmament and non-proliferation regimes sufficiently strengthened, with the result that the Council is now being asked to step forward to fill a gap, with the required urgency.

However, the draft resolution will not succeed in its aim without the support and acceptance of Member States. Such acceptance requires the Council to dispel any impression of negotiations behind closed doors or that a small group of States is drafting laws for the broader membership without the opportunity for all Member States to express their views. That is why New Zealand has joined other States in requesting this open debate.

Before I make some specific points on the draft resolution, I want to reaffirm New Zealand's strong view that it is no substitute for the development of strong and effective multilateral disarmament instruments.

We see the draft resolution as part of a wider debate that covers disarmament and proliferation of all types, both horizontal and vertical. In our view, the only way to guarantee that weapons of mass destruction do not fall into the hands of others is to eliminate them totally through a transparent and verifiable process of disarmament. We therefore underline our strong support for the reference in the second draft preambular paragraph to the presidential statement adopted by heads of State and Government on 31 January 1992, including the express reference to the need for all Member States to fulfil their obligations in relation to arms control and disarmament.

Secondly, we place importance on the fact that the draft resolution would also impose restraints on those States that have deliberately chosen to stand outside the major disarmament and non-proliferation treaties to which most States, including my own, have committed themselves. This is a major gap that the draft resolution can begin to fill.

Thirdly, if this draft resolution is to have value, it must be more than simply a political statement. By placing the draft resolution under Chapter VII, members of the Council are sending a clear signal of the importance they place on the obligations it contains. We share the Council's view of the importance of these obligations. The bottom line is that if the Council is going to attempt to plug this gap, it must be plugged tightly. Anything less would undermine the credibility of the Council's actions and the fight against non-proliferation itself by providing a false sense that the problem has been solved.

Fourthly, in New Zealand's view, this draft resolution represents a critical stopgap measure rather than an optimal solution. These are complex issues, and they must be addressed comprehensively and effectively. It is very hard to set up the necessary comprehensive framework for verification and compliance under a Security Council resolution. We believe that it is now urgent to start work on multilateral treaty commitments to address these issues.

Fifthly, we note that the Council intends to monitor closely the implementation of the draft resolution and to create a committee of all members of the Council for that purpose. We expect that the committee will draw on expertise from the existing multilateral regimes to guide its work and to give greater clarity to Member States as to how best to implement the general requirements of the resolution in practice. We note, however, that the committee is to operate for a period of no more than six months. We look forward to further elaboration of how it is proposed to monitor implementation after that period, and what assistance in implementation might be made available to Member States that need it. We welcome the Council's clarification that any action in respect of States that the Council judges not to have met the requirements of the resolution will be discussed and that any decisions will be taken by the Council as a whole.

Finally, it is important that issues of process and substance do not become confused. It is no secret that there is some disquiet within and without the Council over the process by which this draft resolution is being produced. However, those qualms must not be allowed to distract States, including members of the Council, from the importance of the issues being addressed in the draft resolution and the need for all Member States to take all possible measures to prevent non-State actors gaining access to weapons of mass destruction.

It is our hope that this draft resolution, which addresses a gap in global security, will at the same time provide a catalyst to reenergize our other work on multilateral disarmament and arms control.

The President: I now give the floor to the representative of South Africa.

Mr. Kumalo (South Africa): South Africa welcomes this open debate and the fact that the Security Council is discussing the non-proliferation of weapons of mass destruction and terrorism, particularly as it relates to non-State actors. We requested this debate, together with the delegations of Canada, Mexico, New Zealand, Sweden and Switzerland, because it is our view that this open debate provides an opportunity for the wider membership of the United Nations to contribute to the proposed draft resolution by sharing new ideas and proposals.

We are pleased that the sponsors have already taken some of the recommendations that have been made during the consultations that have been going on. We trust that the recommendations made during the course of this debate will also be taken into consideration and reflected in further adjustments to the draft resolution.

South Africa shares the concerns regarding the threat that weapons of mass destruction pose not only to individual countries but also to the international community as a whole. This threat is exacerbated by the possibility that weapons of mass destruction could fall into the hands of terrorist groups or those engaged in the activities of networks dealing in the illicit transfer of weapons of mass destruction and related technology and materials. We are concerned, however, that the draft resolution under consideration addresses only the spread of weapons of mass destruction, and even then in an incomplete manner. There is only a passing reference to disarmament in spite of the fact that chemical and biological weapons have been prohibited by international law and despite the unequivocal undertaking of the nuclear-weapon States to eliminate their nuclear arsenals.

On the issue of non-proliferation, the draft resolution addresses only non-State actors while ignoring the threat to international peace and security posed by proliferation by States. If the Council were not to act in a comprehensive manner there is a danger that loopholes might remain that could be exploited by those who seek financial or political gain and by those who seek to achieve their objectives through terror. South Africa believes that the threat posed by weapons of mass destruction can be effectively addressed only if we use all the instruments at our disposal, in the fields of both non-proliferation and disarmament. The attempt to establish a mechanism in the Security Council that is isolated from the Biological Weapons Convention, the Chemical Weapons Convention and the Nuclear Non-Proliferation Treaty is a weakness that may impact on the effectiveness of the measures being considered in the draft resolution. It is South Africa's belief that universal adherence to and compliance with international agreements on weapons of mass destruction and the complete elimination of those weapons provide the international community with the only guarantee against the threat or use of those weapons.

It is important that the draft resolution be drafted in a manner that makes it practical and implementable by States. The current draft resolution imposes obligations on United Nations Member States and attempts to legislate on behalf of States by prescribing the nature and type of measures that will have to be implemented by States. That is the case also where States have already accepted non-proliferation obligations under international treaties and other legal instruments. South Africa believes that the draft resolution could have far-reaching legal and practical implications for Member States, especially those that have a capacity in nuclear, chemical and biological matters. In recognizing the dual-use nature of such materials, there may be potential implications for a wide range of institutions, including hospitals, laboratories, universities, veterinary clinics, agricultural research centres and similar institutions.

In terms of South Africa's national legislation that controls such materials, there are clearly defined lists of items that are regulated. This is also the case in schedules attached to the Chemical Weapons Convention and other regimes, such as the Zanger Committee, the Nuclear Suppliers Group, the Australia Group and the Missile Technology Control Regime. Such specified lists of controlled items are essential to ensure that those controlling these items know exactly what to control. The absence of such clearly defined lists if items in the draft resolution could lead to conflicting interpretations of "controlled items" and to a multitude of control lists. A more effective an sustainable approach would be to utilize the existing mechanisms and regimes to ensure that they operate more efficiently and effectively.

My delegation believes that all States Members of the United Nations would be opposed to the prospect of weapons of mass destruction falling into the hands of non-State actors, especially terrorists. The challenge for the Security Council, whose mandate is the

maintenance of international peace and security, is to ensure that the systems assistance that we already have to control the technologies, material and equipment for the production and delivery of weapons of mass destruction are implemented more effectively and improved where necessary. The efficiency of those systems and the ability of States to implement control measures in a way that will prevent access by all of those, both States and non-State actors, who wish to use these items for the development of weapons of mass destruction depends on the sharing of intelligence and information.

It is unlikely that any application for the transfer of a controlled item would be for a transfer to an end-user that is known to be a terrorist organization. It is more likely that front companies or front end-users would be used instead. The ability to prevent such a transfer is less dependent on the fact that the item is controlled and more dependent on information about the real end use to which it will be put. That information holds the key to success and can be made available only through intelligence sharing. My delegation believes that it is through such sharing of intelligence information that the gap in non-proliferation controls can be bridged.

The President: I now give the floor to the representative of India.

Mr. Nambiar (India): We appreciate this opportunity, in today's open meeting of the Security Council, to express our views on the vital issue of the non-proliferation of weapons of mass destruction (WMD). The threat of terror and WMD proliferation coming together is a real one and should clearly be an issue of the highest priority for the international community.

As a victim of terrorism for almost two decades, India understands the danger that the transfer of such weapons of mass destruction could entail. It is that realization that prompted India to pilot draft resolutions on measures to prevent terrorists from acquiring weapons of mass destruction, adopted by consensus by the General Assembly at its last two sessions (General Assembly resolutions 57/83 and 58/48).

We perceive today's discussion as a logical continuation of the process initiated in the General Assembly. Hence the validity of the focus on non-State actors in the draft resolution under discussion. However, this in no way diminishes State accountability with respect to combating terrorism and eliminating its support infrastructure and linkages with WMD. As in the case of terrorism, States cannot be absolved of accountability on grounds that proliferation was the result of private enterprise.

The sponsors of the draft resolution under discussion in the Council have stated that the intention behind their initiative is to fill a gap in the non-proliferation regime — which, if negotiated through the multilateral framework, could take years. In our view, the issue should ideally have been addressed through existing international instruments and by building on them.

Our recognition of the time imperative in seeking recourse through the Security Council does not, however, obscure our more basic concerns over the increasing tendency of the Council in recent years to assume new and wider powers of legislation on behalf of the international community, with its resolutions binding on all States. In the present instance, the Council seeks to both define the non-proliferation regime and monitor its implementation. But who will monitor the monitors? We are concerned that the exercise of legislative functions by the Council, combined with recourse to Chapter VII mandates, could disrupt the balance of power between the General Assembly and the Security Council, as enshrined in the Charter.

The issue goes beyond a mere legal consideration of the Council's allocated powers under the Charter. The credibility and even respect that the Security Council can garner depend on its actions being the product of internal cohesion and universal acceptability. Although resolutions such as resolution 1373 (2001) were adopted unanimously, the limitations in their implementation underscore the need for caution on the Security Council being used as a route to short-circuit the process of creating an international consensus. Exhaustive and excessive reporting obligations resulting from resolutions 1267 (1999) and 1373 (2001) have led to repetitive reporting exercises and burdensome bureaucratic structures without commensurate results on the ground.

As it returns to the theme of non-proliferation after a gap of more than 12 years since 1992, the Council's credentials are not helped by its track record. Exclusive focus on non-proliferation does disservice to the essential principle of the mutually reinforcing

linkage between disarmament and non-proliferation, recognized since the first special session of the General Assembly devoted to disarmament. International treaties or agreements in this field should be multilaterally negotiated, not imposed. They should be based on a balance of obligations to ensure universal adherence, which is the true test of legitimacy and credibility.

To our mind, export controls are not an issue on which the Security Council should prescribe norms. There is tension between ad hoc arrangements on harmonizing export controls among a select few countries on the one hand, and measures being put forward by the Council, intended for universal application, on the other hand. The flip side of export controls is indiscriminate technology denial to States with legitimate socio-economic needs. Recent cases have thrown the spotlight once again on the inadequacies of the current regime. They have also shown that, far from effectively addressing genuine proliferation concerns, export controls on sensitive technology and materials have often served to deny those technologies to responsible nations which play the game by the rules.

India has taken note of the observation of the sponsors that the draft resolution does not prescribe adherence to treaties to which we are not a State party. For our part, we shall not accept any interpretation of the draft resolution that imposes obligations arising from treaties that India has not signed or ratified, consistent with the fundamental principles of international law and the law of treaties. India will not accept externally prescribed norms or standards, whatever their source, on matters pertaining to domestic jurisdiction of its Parliament, including national legislation, regulations or arrangements which are not consistent with its constitutional provisions and procedures which are contrary to its national interests or which infringe on its sovereignty.

A word of caution on the definition of terms will be in order. By applying traditionally understood categories of arms control in novel areas in which definitions are not well established, we may be creating grounds for differing interpretations. That problem can be compounded by differing national capacities among States to carry out their obligations. A one-size-fits-all approach will not work. The draft resolution makes reference to non-State actors as those identified in the United Nations list, which may not be exhaustive.

While being under Chapter VII, the draft resolution ought to steer clear of any coercive or punitive approach or follow-up mechanism, which would defeat its very purpose. We have noted the sponsors' assurance that the use of force is not envisaged or authorized by the draft resolution. Transparency and inclusiveness in that regard are crucial. Given the far-reaching scope of the draft resolution, it stands to reason that membership of the relevant committee should not be restricted to that of the Council but should also include other Member States which have significant capabilities and expertise in related fields.

Having said that, it must be stated that Member States have undoubtedly seen the utility of urgent measures to foster cooperative action at the multilateral level, as is envisaged in the draft resolution.

As a matter of national policy, conscious of its responsibilities arising from the possession of advanced technologies, India is committed to an effective and comprehensive system of export controls to deny unlawful access, whether to States or to non-State actors. Our national effort is based on a policy anchored on a conscious decision to prohibit or control exports of WMD-usable materials, equipment or technologies or their delivery systems.

The crisis underlying the non-proliferation order is a matter of deep concern to India, since the infirmities of the present order have adversely impacted on our security. It would be a precarious paradox if individual State actions, despite this draft resolution, condoned instances of proliferation or rewarded proliferating States by other means. We believe that meeting new proliferation challenges requires fresh approaches, pooling the efforts and resources of the international community.

Today we renew the call made at the 1992 Security Council summit on non-proliferation for devising a new international consensus on non-proliferation. We hope that our endeavours will spur common efforts for mutual benefit and in the interests of a safe and secure world.

The President: I now give the floor to the representative of Singapore.

Mr. Mahbubani (Singapore): After the events of 11 September 2001, it is not possible to realistically discuss the threat of the proliferation of weapons of

mass destruction (WMD) without reference to terrorism. The global threat of WMD proliferation and the nexus between WMD proliferation and terrorism are of real and grave concern. There is ample evidence, and a growing consensus among terrorism experts, that it is possible, if not highly probable, that the more sophisticated terrorist movements such as Al Qaeda will employ biological, chemical, radiological or nuclear WMD against their enemies. It is no longer a question of whether this will be attempted, but of when.

The nexus between WMD proliferation and terrorism is of particular concern to a small, densely populated country like Singapore. Last year, severe acute respiratory syndrome (SARS) gave several countries a small foretaste of what a biological or chemical attack might be like. The threat is real. A WMD terrorist attack on a small State can mean the physical end of the country. International terrorist networks are deeply embedded in Southeast Asia. It will take many years to root them out. Until they are rooted out, we will be at risk.

In June 2003, authorities in Thailand intercepted a man trying to sell radioactive materials that could have been used to make "dirty bombs". The 70 pounds of cesium-137, reportedly smuggled out of Russia, were seized by Thai police after an intelligence tip-off. The timely sharing of intelligence to find and intercept such dangerous materials and to stop them from falling into the wrong hands is a positive development. The bad news is this confirms terrorists' intentions on the use of WMD and related weapons.

Singapore is serious about preventing WMD proliferation. We continue to do what we can in global counter-proliferation and counter-terrorism efforts. Nationally, we have tightened our export control regime. In January 2003, the Strategic Goods (Control) Act, which is aimed at countering the illicit shipment of strategic goods, WMD and related materials through our ports, came into effect. We made an early decision to participate in the Container Security Initiative, which intensifies the screening of containers. Last year, we intercepted several shipments of items that could have been used in the manufacture of chemical weapons or missiles. We will ensure that all Singapore port facilities and Singapore-flagged ships comply with the requirements of the International Maritime Organization International Ship and Port Facility Security Code by 1 July 2004.

No country can deal with terrorism, let alone WMD terrorism, on its own. We need to act quickly to close the gap in current national, regional and international regimes, which today deal primarily with States, and face up to the new challenges posed by non-State actors.

Singapore understands many of the concerns expressed here in this debate by some of the other delegations. For example, they question whether the Security Council can assume the role of treaty-making or of legislating rules for Member States. We agree that a multilateral treaty regime would be ideal. But multilateral negotiations could take years, and time is not on our side. Urgent action is needed. We therefore support the draft resolution under discussion. We agree that some of the details, such as the follow-up mechanisms and the reporting mechanisms, need to be ironed out. The draft resolution is only a first step. But we need to take that first step and tighten the current non-proliferation regime. The longer we take to act, the more time the terrorists have to plot against us.

We therefore welcome the initiative by the Security Council to further enhance, through this draft resolution, the regime against the proliferation of WMD. We believe that it will help make the world a safer place. We urge all countries to support it.

Mr. Ryan (Ireland): I have the honour to speak on behalf of the European Union (EU). The acceding countries Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, the candidate countries Bulgaria, Romania and Turkey, the countries of the Stabilization and Association Process and potential candidates Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia and Serbia and Montenegro and the European Free Trade Association country Iceland, member of the European Economic Area, align themselves with this statement.

The European Union and the countries aligned with this statement welcome the readiness of the Council to respond to requests for an open debate on a draft resolution on the proliferation of weapons of mass destruction (WMD). This is a critical issue, and, given the impact that such a resolution will have on all States Members of the United Nations, it is particularly important that the wider United Nations membership be consulted and be given an opportunity to have their views heard in advance of action on the draft

resolution. In this context, we appreciate the outreach efforts to the wider United Nations membership that have already been made by the sponsors.

The European Union therefore welcomes and strongly supports this initiative by the Security Council to address the problem of the potential acquisition of nuclear, chemical or biological weapons or materials by non-State actors. Measures are needed to address this important issue, and enhanced international cooperation is required.

At their meeting in Thessaloniki in June 2003, European Union heads of State or Government agreed that the proliferation of weapons of mass destruction and means of delivery, such as ballistic missiles, is a growing threat to international peace and security. They have also recognized that the risk that terrorists will acquire chemical, biological, radiological or nuclear materials adds a new critical dimension to this threat. EU heads of State or Government have resolved to take action to address this threat, using all instruments and policies at the disposal of the Union, the objective being to prevent, deter, halt and, where possible, eliminate proliferation programmes of concern worldwide.

The European Union has since developed a strategy against proliferation of weapons of mass destruction, which was adopted in December 2003. Strengthening the role of the Security Council, including in relation to issues of non-compliance with multilateral disarmament and non-proliferation treaties, is an important element of the EU strategy. We are pleased, therefore, to find in the draft resolution many points of commonality with that strategy, while recognizing at the same time that the focus of the draft resolution is more specific.

Integral to the strategy is our conviction that a multilateralist approach to security, including disarmament and non-proliferation, provides the best way to maintain international order. Convinced that non-proliferation and disarmament are mutually reinforcing, the EU welcomes the fact that the most recent version of the draft resolution now includes reference to the role of disarmament.

The EU strategy reaffirms the EU commitment to uphold and implement the multilateral disarmament and non-proliferation treaties and agreements and the multilateral institutions charged respectively with verification and upholding compliance with these treaties.

Accordingly, the EU believes that all States should be asked to promote the universal adoption and full implementation of the multilateral treaties, and not only those States that are party to them. The EU welcomes the explicit assurance that nothing in the draft resolution should be taken to conflict with or alter the rights and obligations of States parties to existing treaties and conventions or with the responsibilities of the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW).

The EU adopted in November 2003 a Common Position on the universalization and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery. Accordingly, the EU is working independently, but in the spirit of the draft resolution, for the universalization and, when necessary, strengthening of the main treaties, agreements and verification arrangements on disarmament and non-proliferation. We are also committed to enhancing political, financial and technical support to verification regimes — including, in particular, the IAEA and the OPCW.

The EU is already working to strengthen export control policies and practices in coordination with partners of the export control regimes, and is advocating, where applicable, adherence to effective export control criteria by countries outside the existing regimes and arrangements. We also strongly endorse the need to enhance the security of proliferation-sensitive materials. We support efforts to strengthen identification, control and interception of illegal trafficking of WMD-related material. The EU decided in November 2003 to include in its agreements with third countries a non-proliferation clause, which requires, inter alia, the establishment by States parties of an effective system of export controls.

The European Union is committed to reinforcing its cooperative threat reduction programmes with other countries and plans to set up a programme of assistance to States in need of technical knowledge in order to ensure the security and control of sensitive material, facilities and expertise.

On such a critical issue, it is important that the language and explanation of the draft resolution is as clear as possible to ensure an accurate understanding of

its scope and its clear interpretation following adoption. The draft resolution places far-reaching and legally binding demands on States, and clarity of language is therefore important. We appreciate the continuing efforts of the Council in that regard.

We believe that the resolution should be endowed with an effective follow-up mechanism, firmly anchored in the Council. That would also help reassure Member States that the resolution will be implemented in a transparent, cooperative and consistent manner. We also strongly believe that a committee of the Council would require a mandate of two years. Ways might also be explored to improve ties with non-Council members in the work of the Committee.

Member States have a direct and vested interest in this draft resolution. The proliferation of weapons of mass destruction is a global threat that requires an effective global response. We are confident that the Council, in its ongoing deliberations on the draft, will continue to take account of the concerns of Member States so that the resolution, when adopted, will enjoy widespread support and so that truly collective action to combat the proliferation of weapons of mass destruction will be assured. The security of our States, our peoples and our collective interests demands no less.

The President: I now give the floor to the representative of Sweden.

Mr. Schori (Sweden): Sweden aligns itself fully with the statement that has just been delivered by the Ambassador of Ireland on behalf of the European Union and the acceding countries. However, I am pleased to be given this opportunity to highlight some points of special interest to Sweden.

Sweden warmly welcomes the Security Council's active involvement in efforts to prevent and stop the proliferation of weapons of mass destruction. My country has a long tradition of strong engagement in issues of disarmament and non-proliferation. Our late Foreign Minister Anna Lindh initiated the work that led to the adoption of a European Union strategy against the proliferation of weapons of mass destruction in December last year.

Addressing the threats to international peace and security posed by weapons of mass destruction is an urgent task that needs to be undertaken collectively by the international community. Sweden has consistently advocated that a strong and central role be given to the Security Council in addressing those issues. We are therefore pleased to support the draft resolution. In our view, it is both timely and proper that the international body that has been given the main responsibility for the maintenance of international peace and security also now addresses in a comprehensive way questions related to the proliferation of weapons of mass destruction.

This important resolution will clearly affect all Member States. That emphasizes the need for transparency in shaping the draft resolution. Therefore, we appreciate the opportunity that this meeting offers for Member States to express their views. We hope that the remaining part of the work on this resolution will be marked by the same openness and transparency, which will encourage broad support.

In that very spirit, Sweden would like to emphasize two specific points where the wording of the resolution needs to be unequivocally clear. First, an individual who claims that his rights have been violated as a consequence of the implementation of this resolution should be guaranteed access to courts at the national level, and States have a duty to ensure that this happens. Secondly, when States and individuals take measures to implement this resolution, all such action should be consistent with international law and the United Nations Charter.

Sweden is confident that the adoption of this draft resolution can have a positive impact on Member States' capabilities to deal with the proliferation of weapons of mass destruction and related materials. It is therefore a most welcome step in fulfilling the responsibility of the Council for the maintenance of international peace and security.

The President: I now call on the representative of Japan.

Mr. Haraguchi (Japan): At the outset, allow me to state that, given the critical importance of the issue, Japan considered it desirable for States not members of the Council to be afforded the opportunity to express their views. We therefore highly appreciate your initiative, Sir, of convening today's open meeting.

Having said that, let me offer several comments at this juncture. First, Japan shares the serious concern and misgivings at the proliferation of weapons of mass destruction and their means of delivery and believes

that the Security Council and the United Nations as a whole must play a more effective role in addressing this issue. With respect to the present draft resolution, it is urgent and essential for us to act to ensure that weapons of mass destruction do not fall into the hands of terrorists and other non-State actors. For that reason and because the issue is one that is directly tied to the security of many countries, including mine, my Government supports the adoption of a resolution by the Council, as long as it is acceptable to Member States after further discussion of the present draft.

Secondly, in order to ensure the effectiveness of the resolution, it is desirable that the committee mentioned in the current draft resolution offer advice to countries concerned in order to enable them to correct their specific, concrete violations. Such a committee should be staffed by persons with sufficient expertise, who should be recruited not only from the members of the Council but also widely from Council non-members. For its part, Japan is prepared to make a contribution in that respect. In addition, I wish to draw the attention of the Council to the fact that the Department for Disarmament Affairs, with responsibility for disarmament and non-proliferation, already exists within the United Nations. It might be advisable for the committee to make good use of its resources.

Thirdly, in order to counter the proliferation of weapons of mass destruction, it is essential to secure the active — not passive — and willing cooperation of a large number of countries, especially developing countries. The Security Council should therefore also play an important role in encouraging the provision of technical assistance to developing countries, so that they will be able to enact the necessary domestic laws in implementing the effective non-proliferation measures imposed under the resolution.

Finally, allow me to make a general observation. In adopting a binding Security Council resolution under Chapter VII of the United Nations Charter, the Security Council assumes a lawmaking function. The Security Council should, therefore, be cautious not to undermine the stability of the international legal framework.

Japan strongly hopes that the Security Council will take note of these observations so that discussion on the draft resolution may be conducted in such a manner that full transparency is guaranteed and that the Council will adopt a resolution with the widest support among Member States.

The President: I now give the floor to the representative of Switzerland.

Mr. Staehelin (Switzerland) (*spoke in French*): The proliferation of weapons of mass destruction and the risk that non-State actors, in particular terrorist groups, could gain access to such weapons constitute one of the most serious threats of our time. Switzerland believes that there is an urgent need to contain that threat, which concerns the entire international community.

In principle, legislative obligations, such as those foreseen in the draft resolution under discussion, should be established through multilateral treaties, in whose elaboration all States can participate. It is acceptable for the Security Council to assume such a legislative role only in exceptional circumstances and in response to an urgent need.

As the draft resolution under discussion contains obligations that affect all Member States, it must be drafted with the greatest possible transparency. It is this concern for transparency that has led Switzerland to support the request for an open debate. Given the nature and scope of the draft resolution, the measures provided for should be understood as a provisional regime, and thus be subject to review after a certain period of time, in light of the experience gained. In addition, from the outset, there needs to be maximum clarity with respect to the scope of the obligations imposed on Member States. In this respect, Switzerland is of the opinion that a number of concepts contained in the draft resolution are not sufficiently precise. This is the case for example in the operative paragraph 2 of the draft resolution, where reference is made to "appropriate and effective laws".

As for the monitoring of the implementation of the resolution, it must also be clearly defined. In our view, the fact that the draft resolution is based on Chapter VII of the Charter cannot be understood as a pre-authorization for States to resort to unilateral sanctions. In other words, the monitoring of the implementation must be carried out within a multilateral framework. In this respect, Switzerland welcomes the establishment of a committee of the Security Council. It is important therefore that the committee and the Security Council work closely with existing competent organizations in this area.

Moreover, there needs to be consideration as to whether the subject matter dealt with in the draft resolution should not, at least in the medium term, be contained in an international instrument, which would be developed in a broader framework. This would allow all interested States to participate, on an equal footing, in defining and monitoring this non-proliferation regime.

In the future, efforts to counter the proliferation of WMD must also focus more closely on strengthening verification procedures and instruments. It would be therefore be positive to see this aspect be given greater consideration in the draft resolution.

Finally, Switzerland welcomes the fact that the preambular portion of the draft resolution explicitly reminds Member States of their obligations concerning arms control and disarmament. In our view, this aspect merits even greater attention. The long-term aim is, and must remain, the complete elimination of WMD. To achieve this aim, all States must fully meet their obligations under the relevant conventions.

The President: I now call on the representative of Israel.

Mr. Mekel (Israel): Mr. President, at the outset I would like to congratulate you on the assumption of the presidency and express our appreciation for your wise stewardship of the Council's deliberations.

The past year has been characterized, among other things, by two major developments in the field of non-proliferation. The first is the exposure of violations committed by States regarding their commitments, and henceforth the international recognition of the limitations of the traditional mechanisms to ensure compliance. The second major development, which complements the first one, is the revelation of proliferation networks through which dual-use materials, equipment, technologies and know-how are being distributed to States and non-State actors.

Therefore, beyond the threat of proliferation by States, there is a growing threat that terrorists might be able to obtain sensitive materials, technologies and know-how. As one of the countries that faces these threats, Israel welcomes the international effort to identify concrete and effective steps aimed at preventing the proliferation of weapons of mass destruction (WMD) and in particular the growing threat of WMD terrorism.

As a full partner in the effort to prevent this phenomenon, Israel has recently adopted legislative measures in order to control the export of dual-use materials, technologies and know-how that could be used for the development of WMD. These measures include controls on items in accordance with lists based on international standards in this field. They also include materials based on lists of relevant international standards that prohibit the export of any item designed for chemical, biological or nuclear weapons.

This step provides a legal framework and constitutes an improvement to the stringent export control system that currently exists in Israel. This supplements Israel's export control legislation on missiles and related materials. We believe that the way to prevent the spread of WMD, in particular to terrorists, is first and foremost to increase national controls and to improve the protection of sensitive facilities at the national level.

Therefore, as mentioned before, we support this initiative and the objectives of this draft resolution. Taking into account our support for the current draft, we have a few suggestions which we believe can improve the text and which, we hope, will enjoy the support of other delegations.

In regard to the fifth preambular paragraph, Israel believes that there should be a distinction between legitimate cooperation for purposes of promoting peace, and cooperation that only serves as a veil to hide illegitimate plans. Therefore, we believe that it is desirable to add the word "legitimate" between the words "hamper" and "international", so that cooperation is limited to legitimate cooperation. We would also like to suggest that the words "legislative measures" substitute for the word "laws" in operative paragraph 2.

Taking into account the experience that we have gained during the past year as regards the non-obedience of States to the traditional mechanisms to assure obedience to international commitments and responsibilities, Israel believes that it would be correct to add the following sentence at the end of operative paragraph 6 (a): " ... as well as the compliance of States to their obligations under these treaties".

We also believe that the definitions segment at the end of the draft resolution should include the word "services" in the definition of "related materials".

At this time, I would like to reiterate my support to this international effort. As mentioned here today, this draft resolution could make an important contribution to the struggle against proliferation and provide long overdue attention to the growing threat of the use of non-conventional weapons and terrorism.

The President: I now call on the representative of Cuba.

Mr. Requeijo Gual (Cuba) (*spoke in Spanish*): Cuba shares the concern regarding the dangerous links existing between terrorism and weapons of mass destruction (WMD) and we completely support all legitimate international efforts to prevent the acquisition of such weapons and their means of delivery by terrorists. Nonetheless, the Cuban delegation is also concerned that the Security Council, recognized to be of limited composition, and in which some members have the right of veto, has taken the initiative to prepare a draft resolution on a subject which should continue to be considered in the framework of the traditional multilateral disarmament machinery, where the appropriate space exists to negotiate a legally binding instrument.

In this connection, we believe that international legal obligations, including those that relate to the field of disarmament, weapons control and non-proliferation, must not be imposed upon Member States without their participation and their sovereign acceptance, through the signing and ratification of the corresponding treaties and agreements that have been negotiated multilaterally. The possibility of terrorist attacks with WMD cannot eliminated through a selective approach, such as that promoted by this draft resolution, which confines itself to combating horizontal proliferation, and virtually disregards vertical proliferation and disarmament.

The only guarantee that WMD will not fall into the hands of terrorists is the prohibition and the total elimination of this type of weapon, especially nuclear weapons, whose very existence constitutes, in itself, a threat to international peace and security.

For reasons of time, I will not explore in depth other concerns that we have with regard to other elements of the draft resolution, such as, for example, the issue of the definitions used, the true scope and implications of this text for Member States and the negative impact that it might have on the existing non-proliferation treaty regime.

Furthermore, it cannot be ruled out that some Power might interpret the adoption of this text under Chapter VII of the United Nations Charter to be a pre-authorization or a justification for the unilateral use of force against given States because of alleged suspicions of proliferation of weapons of mass destruction (WMD) or their components. In our own case, this is of particular concern, bearing in mind that high officials of the United States Government have repeatedly and dangerously levelled completely false and unfounded accusations against Cuba, alleging, without presenting the slightest evidence, that our country possesses a limited capacity for the research and development of biological weapons, an accusation which we will continue to vigorously reject.

The text of the draft resolution is ambiguous enough for some States to proclaim that, in it, the Security Council legitimizes the interception of ships and of aircraft in the framework of the so-called Proliferation Security Initiative. This initiative is already operational, although the great majority of States were not given an opportunity to participate in its development, in spite of its important implications. The Initiative, instead of contributing to international unity on this subject and contributing to the strengthening of the role of the United Nations and of international treaties, weakens these. Cuba believes that a multilateral and non-discriminatory approach is the only effective way of countering the use of WMD by terrorists.

Several elements of this initiative do not correspond to the basic principles contained in the United Nations Charter and recognized in international law that prohibit interference in the internal affairs of States and the use or the threat of the use of force against the territorial integrity or political independence of any State. There is absolutely no guarantee that the prerogatives, which were self-assumed by the participants in the Proliferation Security Initiative and which could be given legitimacy by this draft resolution, might not be manipulated by some, particularly by the States that have the greatest military might, to commit abuses against the ships and aircraft of other States for a range of reasons.

Likewise, we must not discard the possibility of some of the participants in the Proliferation Security Initiative considering that they have been given some kind of authorization to intercept any type of cargo on the basis of arbitrary criteria. This would lead to attempts to board ships and aircraft, even violating rights established by the 1982 United Nations Convention on the Law of the Sea, the provisions on the right of innocent passage of ships through States' territorial waters and the jurisdictional regime of the high seas contained in the above-mentioned Convention.

Lastly, it would be useful to recall that the main author and promoter of this draft resolution is precisely the State that has the largest military expenditures in the world, that has doctrines of security that contemplate preventive attacks and the use of nuclear weapons against States that do not posses such weapons, and that not only has many nuclear weapons but is also in the process of developing new types of such lethal weapons. This double standard represents a real threat to all that must not be left without due denunciation.

The President: I now give the floor to the representative of Indonesia.

Mr. Jenie (Indonesia): Mr. President, thank you for convening this open debate of the Security Council on an issue that has become a preoccupation of the entire international community. We would also like to take this opportunity to associate ourselves with the statement that will be delivered later by Malaysia on behalf of the Non-Aligned Movement (NAM).

It is a fact that the threat of nuclear weapons proliferation is on the rise. There are signs that non-State actors remain interested in the illicit acquisition of weapons of mass destruction (WMD). Illegal networks exist that can deliver nuclear materials and technology that can be used to produce weapons. In dealing with these potentially dangerous situations, we are hampered by the lack of any legal framework that would effectively thwart the efforts of non-State actors, in particular terrorists, to acquire and illegally transfer nuclear and other WMD materials. Although there are rules and regulations promulgated by several arms control regimes, they are by no means uniform, being susceptible to varying interpretations, and, due to their restrictive nature, not enjoying universal support. Most importantly, there are no internationally acceptable provisions to penalize illegal proliferation activities by individuals or non-State actors. Thus the draft resolution now before the Council deals with one of the most important aspects of non-proliferation. There is clearly an urgent need to prevent nuclear proliferation involving non-State actors as demonstrated by recent revelations.

However, the draft resolution is unbalanced and has consequently raised serious concerns, as it impinges on the sovereign rights of Member States. Because of its wide-ranging ramifications, the issues contained in it need to be further deliberated and clarified prior to its adoption. Indeed, we are of the opinion that legal obligations can only be created and assumed on a voluntary basis. Any far-reaching assumption of authority by the Security Council to enact global legislation is not consistent with the provisions of the United Nations Charter. It is therefore imperative to involve all States in the negotiating process towards the establishment of international norms on the issue.

The draft resolution is one-sided and adopts a unidimensional approach: it deals with prevention based on punitive measures for States but not the elimination of WMD. Nuclear non-proliferation is the obverse side of nuclear disarmament. Nuclear non-proliferation cannot be successfully promoted in the absence of corresponding progress towards nuclear disarmament. Also conspicuous is the draft resolution's lack of reference to horizontal and vertical proliferation and nuclear disarmament.

The expanded scope contemplated in the draft resolution goes far beyond the stated objective of preventing the acquisition of WMD by non-State actors and seeks jurisdiction even over treaty-implementing mechanisms such as the International Atomic Energy Agency (IAEA). It is, therefore, not only what is contained in the draft resolution that is important, but also what is also implied. This aspect needs to be seen from its proper legal and political perspective. Further compounding the situation are definitional problems relating to the terms "non-State actors", "responsibility of States" and other terms that are contained in the body of the draft resolution and in its footnotes.

We are concerned about the invocation of Chapter VII of the Charter. The preferred course of action should be cooperative rather than coercive. The

coercive option should be a last resort, undertaken within the framework of a consensus decision.

The establishment of a committee under the auspices of the Security Council would constitute a separate regime for non-proliferation and could well undermine the functions and the proven role of existing treaty regimes such as safeguards regime of the IAEA. By excluding an overwhelming majority of Member States, such a body would be unrepresentative and would serve no useful function. Its role as defined in the draft resolution could be performed by the United Nations Secretariat.

Finally, in view of the importance and the complexities attendant upon the issues involved, the five permanent members of the Security Council have taken several months to examine and decide upon various aspects of the draft resolution. Likewise, the general membership needs adequate time to assess its implications, both here in New York and in our capitals. The Council can effectively deal with this aspect of non-proliferation by doing full justice to the preponderant views of an overwhelming majority of Member States.

The President: I now give the floor to the representative of the Islamic Republic of Iran.

Mr. Danesh-Yazdi (Islamic Republic of Iran): I thank you, Mr. President, for convening this meeting on an issue that is of the utmost importance for the international community. The attention paid over past few weeks to the draft resolution — which proposes to bar the acquisition of weapons of mass destruction (WMD) by non-State actors — indicates clearly that the stakes are very high for many States. We consider this debate to be an opportunity for the United Nations general membership to present its viewpoints on this draft resolution, which, if it is adopted, would have far-reaching legal and political implications.

While associating my delegation with the statement to be made later by the representative of Malaysia on behalf of the Non-Aligned Movement, I should like to summarize the views of my Government on the draft resolution before us as follows.

The proliferation of WMD is a serious threat, and the prospect of non-State actors acquiring such weapons is all the more threatening to the whole international community. Thus, we wholeheartedly support all efforts that are aimed at dealing with this potential menace and that are undertaken within the parameters of international law.

The United Nations, as the sole universal body, has an important role in addressing this serious threat. The growing risk of linkage between terrorism and WMD prompted the General Assembly, in operative paragraph 1 of its resolution 57/83, to recognize the threat and, accordingly, to call upon "all Member States to support international efforts to prevent terrorists from acquiring weapons of mass destruction and their means of delivery". The present Security Council initiative should therefore be considered to be a step along those lines.

We understand that the Council, in taking this initiative, intends to fill a gap in the non-proliferation regime by means of a binding resolution. However, a number of serious and valid questions arise as to whether the content of the draft resolution fairly and adequately addresses the issue at hand, whether the Council's present action is consistent with the letter and spirit of the United Nations Charter, and how the existing gap — which indeed should be addressed — can be filled when the resolution overlooks the universality of existing international WMD instruments and neglects to require States non-parties to nuclear, biological and chemical weapon treaty regimes to accede to those important treaties.

The United Nations Charter entrusts the Security Council with the huge responsibility to maintain international peace and security, but it does not confer authority on the Council to act as a global legislature imposing obligations on States without their participation in the process. The draft resolution, in its present form, is a clear manifestation of the Council's departure from its Charter-based mandate. We believe that the Council's success in securing an environment of non-proliferation depends greatly on the ability of its own actions to inspire sincere cooperation by States. This open Council meeting is an opportunity for the draft resolution's sponsors to take on board the views and concerns of other States in order to foster international cooperation aimed at collective and meaningful action against terrorism and proliferation.

A major deficiency in the proposed draft resolution is its silence regarding the imperative of disarmament, as well as its failure to acknowledge the linkage between non-proliferation and disarmament. The cosmetic and rhetorical reference to disarmament

in the draft resolution's preamble cannot and should not be interpreted as a substantive provision addressing the important issue of disarmament. Such negligence is in stark contrast to General Assembly resolution 58/48, which emphasized the urgent need for progress in the area of disarmament and non-proliferation in order to help to maintain international peace and security and to contribute to global efforts against terrorism. The draft resolution before the Council, by ignoring the issue of disarmament, not only undermines its significance and thrust aimed at fighting the potential threat of terrorists armed with WMD, but also weakens its effective implementation.

As recognized in existing international WMD instruments, efforts to prevent access to such weapons should not hamper international cooperation to promote the use of materials, equipment and technology for peaceful purposes. To our regret, a provision addressing this key area has not been incorporated into the operative part of the draft resolution. We believe that a fair and balanced draft resolution cannot and should not fail to acknowledge this inalienable right of Member States as it obligates them to shoulder heavy responsibilities and complex commitments.

The proposed resolution contains certain concepts and definitions that are either inadequately elaborated or inconsistent with the terms and definitions embodied in existing international instruments on nuclear, biological and chemical weapons. A clear example of that deficiency is the definition given for the means of delivery, which fails to refer to fighters capable of delivering such weapons. That can be rectified in the final draft of the resolution.

In our view, the draft resolution's enforcement clauses are subject to various interpretations. The monitoring mechanism also needs to be further elaborated and clarified. Hence, language should be included in the text that would, in effect, remove the ambiguity from those vital provisions, thereby preventing suspicion and misinterpretation. Alarmingly, the current state of international affairs teaches us the following crucial lesson: the follow-up on and monitoring of such a resolution cannot be left to the subjective interpretation of individual States. We need common and sound understanding on the part of all States to ensure their faithful implementation of the resolution, irrespective of their status with regard to international WMD treaties. Obviously, if the proposed draft resolution were not of a mandatory nature, that concern would be easy to address.

The draft makes no reference to initiatives on WMD-free zones, which are of great importance for many regions. We believe that that issue — particularly the need to establish the Middle East as a WMD-free zone — should be incorporated into the draft.

Last but not least is the question of urgency. It appears that the draft resolution will be acted upon in the near future. That would satisfy the domestic constituencies of certain States. However, we share the view of those who believe that the draft resolution must not be fast-tracked. The issues that it addresses are extremely important and highly controversial. Comprehensive consultations between sponsors and interested States are not only desirable but imperative. Let us not miss this solemn opportunity; let us not squander it in a hasty and inconclusive process.

Mr. Mekdad (Syrian Arab Republic) (*spoke in Arabic*): We thank you, Mr. President, for convening this meeting to give Member States an opportunity to express their opinions on the important subject on the Council's agenda today. My delegation associates itself with the statement to be made later by the representative of Malaysia on behalf of the Non-Aligned Movement.

The international community has agreed that the best way to eliminate the danger posed by weapons of mass destruction (WMD) lies in their total elimination, whatever form they may take and wherever they are found.

Syria supports that approach. There is no doubt that the possibility of weapons of mass destruction falling into the hands of terrorists, in particular, and the issue of international terrorism in general are matters of grave concern. This should compel us all to consolidate international cooperation in stemming the danger.

Syria is eager to protect our region and the world from the danger posed by the proliferation of weapons of mass destruction. Syria's commitment to shielding the world from that threat prompted us to take an important step in the 1960s by acceding to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). We later concluded a comprehensive safeguards agreement with the International Atomic Energy Agency. It is worth noting that virtually all Member

States are now party to the NPT. Israel, however, is the only Member that has not yet acceded to the Treaty, thus preventing the declaration of the Middle East as a zone free of all weapons of mass destruction and, most importantly, of nuclear weapons.

The Security Council still has before it a draft resolution that was submitted twice by the Syrian Arab Republic last year on behalf of all Arab Member States and issued in blue as document S/2003/1208 of 29 December 2003 (see document S/2003/1219, annex). In its operative and preambular paragraphs, the draft resolution stresses the need to address the danger posed by the acquisition of weapons of mass destruction by terrorist groups and seeks to prevent such weapons from falling into the hands such groups.

It is truly regrettable, however, that the Council has not yet adopted that extremely important draft resolution. Instead, some have tried to exert misplaced pressure, wilfully forgetting the fact that Israel possesses all types of weapons of mass destruction, including nuclear, biological and chemical. That fact has been confirmed by employees of the Israeli industrial complex. This issue raises many questions about the credibility of the approach taken towards the elimination of all weapons of mass destruction, nuclear weapons foremost among them.

The draft resolution before the Council today contains references confirming that the proliferation of nuclear, chemical and biological weapons poses a threat to international peace and security. It also stresses support for multilateral agreements aimed at curbing proliferation. While we approve those references, we share the questions and doubts raised by the States members of the Non-Aligned Movement (NAM) at their meeting with the sponsors concerning other aspects of the draft resolution.

We would welcome the convening of more such consultations prior to the Council's adoption of its final draft. In particular, we would stress the need to refer to the establishment of zones free of weapons of mass destruction, including and particularly in the Middle East, and to clarify certain terms used in the draft resolution, such as "means of delivery" and "relevant material". We also stress the special importance of the statement issued by NAM concerning the need for the draft resolution to be fully in line with Article 25 of the Charter of the United Nations. Finally, the follow-up mechanism for the implementation of the draft resolution must have a clear mandate and terms of reference, including the time frame.

Allow me in conclusion to stress once again the importance that my country attaches to countering, through cooperation with the countries of the world within the United Nations and other forums, the challenge posed by the acquisition by terrorist groups of weapons of mass destruction. Such mutual cooperation represents the sound approach to pursue in order to avert the danger posed by those weapons and to spare humankind the scourge that has emerged over the past century.

The meeting was suspended at 1.05 p.m.

United Nations S/PV.4950 (Resumption 1)

Security Council

Fifty-ninth year

Provisional

4950th meeting

Thursday, 22 April 2004, 3 p.m.
New York

President:	Mr. Pleuger	(Germany)
Members:	Algeria	Mr. Benmehidi
	Angola	Mr. Cordeiro
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Acuña
	China	Mr. Li Song
	France	Mrs. D'Achon
	Pakistan	Mr. Durrani
	Philippines	Mr. Gatan
	Romania	Ms. Matei
	Russian Federation	Mr. Smirnov
	Spain	Ms. Menéndez
	United Kingdom of Great Britain and Northern Ireland	Mr. Pisa
	United States of America	Mr. Cunningham

Agenda

Non-proliferation of weapons of mass destruction

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-32009 (E)

The meeting resumed at 3.05 p.m.

The President: I should like to inform the Council that I have received a letter from the representative of Thailand in which he requests to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite that representative to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, the representative of Thailand took the seat reserved for him at the side of the Council Chamber.

The President: I now call on the representative of Egypt.

Mr. Aboul Gheit (Egypt) (*spoke in Arabic*): The issue before the Council today is an issue of great importance and significance, not only because of its strong relation to the issues of international peace and security but also because of the needed wisdom and diligence to deal with it, the analytical approach that the Security Council takes within the context of its work, and its relation to international conventions.

The proliferation of weapons of mass destruction (WMD) in all their aspects, vertical and horizontal, has always been a threat to international peace and security, and perhaps the recognition by the international community of that fact is what made its members, half a century ago, sit together, with unity of purpose and nobility of vision, to conclude a group of conventions and agreements that are relative to WMD and the materials needed to produce them within a framework of treating such problems, including the issues of follow-up and monitoring.

We are conscious of the threats posed by some groups or individuals producing, developing or transporting WMD without the knowledge of their Governments. This makes us feel suspicious about the ability of the Council to deal with this subject. On the contrary, the temporary and immediate nature of the Council's work in dealing with international peace and security makes it more difficult for it to adopt a deliberate methodology and develop arrangements that are continuous and which, in our view, call for detailed consideration of the way of dealing with these new threats. Intensifying the system of existing conventions would constitute a more competent and transparent response towards these various threats.

While we appreciate the initiative of those who have presented to us, for first time, an opportunity to debate in such a broad forum the draft resolution which is being considered by the members of the Council, we hope that Council members will take the following observations of my delegation into consideration — all the more so because the Council is about to adopt a resolution which calls on Member States to implement a number of measures in conformity with the provisions of Chapter VII of the Charter.

First, the draft resolution before us should determine clearly the relation between the Security Council and its proposed committee and the existing system of conventions and whether the committee is proposed for the current stage or for the future because the Council has been established to deal with problems of this nature. The existing conventions and agreements, despite the extensive consultations it took to draft them, have proven their ability and continuity and have achieved international consensus. Therefore, consideration by the Council of this issue should be on a temporary basis and for a specific, limited time until an internationally ratified agreement can be concluded, which might lead to an expansion or improvement of the other existing conventions.

Secondly, it could be a suitable opportunity, when dealing with the issues to combat the spread of weapons of mass destruction, to re-emphasize proposals for zones free of weapons of mass destruction in various regions of the world, especially in the Middle East.

Thirdly, the proposal to establish a new Security Council committee to combat the proliferation of weapons of mass destruction requires further clarification, not only with respect to the mandate and duration of such a committee but also with respect to its functions and their relationship with the Security Council Committee established pursuant to resolution 1373 (2001) and the Security Council Committee established pursuant to resolution 1267 (1999). Clarification is needed also with respect to the appointment of experts and their areas of specialization.

Fourthly, it may be useful to recall that many Member States will need technical, material or logistical support to comply with the draft resolution.

Here, let me mention danger that might arise from recourse to Chapter VII of the Charter with respect to problems that are known to be beyond the control of Member States.

Fifthly, with reference to the respective legal systems of Member States, control of borders and exit points and internal import-export controls, any measures adopted must result in cooperation, not in accusations. They must thus not be formulated in a hurried way. We were surprised to hear that the sponsors would like to put the draft resolution to the vote before the end of this month.

We note a growing trend towards granting the Security Council additional legislative powers. Here, we wish to make it very clear that membership of the United Nations and the common desire to strengthen its role places a number of responsibilities on our shoulders in conformity with the provisions of the Charter as drafted by the founding Members. Thus, in defining the role of the Security Council in terms of the maintenance of international peace and security and of guaranteeing compliance by Member States with international law, the Charter does not give the Council legislative authority; it gives it the authority to safeguard the Charter and to monitor compliance with its provisions. If in the present case that is what is required, it should be emphasized in the text.

The President: I now give the floor to the representative of Malaysia.

Mr. Rastam (Malaysia): Mr. President, I should like to thank you, on behalf on the Non-Aligned Movement (NAM), for convening this open debate on a question that is very important to all States Members of the United Nations and to the international community at large. The position of NAM on the question of the acquisition of weapons of mass destruction (WMD) and their means of delivery by non-State actors, in particular terrorists, is encapsulated in paragraph 100 of the Final Document of the thirteenth Conference of Heads of State or Government of NAM, held in Kuala Lumpur in February 2003. That paragraph reads as follows:

> "The Heads of State or Government expressed their satisfaction with the consensus among States on measures to prevent terrorists from acquiring WMD. They welcomed the adoption by consensus of General Assembly resolution 57/83 entitled, 'Measures to prevent terrorists from acquiring weapons of mass destruction', and underlined the need for this threat to humanity to be addressed within the United Nations framework and through international law. While stressing that the most effective way of preventing terrorists from acquiring weapons of mass destruction is through the total elimination of such weapons, they emphasized that progress was urgently needed in the area of disarmament and non-proliferation in order to help maintain international peace and security and to contribute to global efforts against terrorism. They called upon all member States to support international efforts to prevent terrorists from acquiring weapons of mass destruction and their means of delivery. They also urged all member States to take and strengthen national measures, as appropriate, to prevent terrorists from acquiring weapons of mass destruction, their means of delivery and materials and technologies related to their manufacture."

It is clear from that statement that the NAM member countries welcome international efforts to prevent terrorists and other non-State actors from acquiring weapons of mass destruction and their means of delivery. The draft resolution currently under discussion in the Council is one of those efforts. While we do not dispute its intent, we still have questions, doubts and our own views and comments regarding its content.

I should like to convey the sincere appreciation of NAM to the sponsors of the draft resolution for their initiative as well as for their preparedness to engage the larger membership of the United Nations in consultations on this very important question, not just confining discussion to members of the Security Council. We found the informal consultations between NAM members and the sponsors held on 6 April to be a very useful effort. We would welcome further consultations on this issue before the Council takes a decision on it. We would also welcome consultations between Council members and NAM on other issues of global concern and interest in the future, in the spirit of promoting dialogue, transparency and accountability in the work of the Security Council.

The Non-Aligned Movement sincerely hopes that the sponsors and other Council members will continue to take into consideration the views and concerns expressed by NAM member countries. We believe that it is important to ensure that the final product is

realistic, generally acceptable and implementable. After all, in this regard, Governments, national legislatures and, for that matter, the private sector in all Member countries are expected to cooperate and take appropriate measures, including the enactment of new legislation and the streamlining or amending of existing legislation where applicable. The Council must give ample time and opportunity for Governments to cooperate fully in ensuring the implementation of the draft resolution.

While fully recognizing the importance and urgency of dealing with the issue of the threat of the use of WMD by non-State actors, NAM also feels that the manner in which the international community responds to this threat should be equally important. Therefore, we would counsel the need for further consultations and would request that the Security Council not rush into making a decision.

I now wish to highlight some specific points. First, the Non-Aligned Movement firmly believes that non-proliferation should be addressed together with disarmament and the continued possession of weapons of mass destruction of any type, which is in fact a threat to international peace and security. That should be adequately reflected in the draft resolution, not only in the preambular section but also in other parts, to provide the necessary balance. There could also be references to the establishment of a zone free of weapons of mass destruction in the Middle East, in line with relevant resolutions already adopted by the Council.

Secondly, NAM hopes that the definition of terms could be made clearer, such as, but not confined to "means of delivery" and "related materials". There may be other important terms identified as appropriate that require defining. A clearer definition of terms could help avoid unnecessary difficulty for Member States in implementing the provisions of the draft resolution once it is adopted.

Thirdly, lack of clarity and vague definitions could result in time-consuming and painstaking interpretation at the national level, especially when legislation and national action are required.

Fourthly, the text of the draft resolution should conform to Article 25 of the Charter of the United Nations. While NAM agrees that preventing non-State actors from acquiring weapons of mass destruction is an issue of paramount importance and is in keeping with efforts to address threats to international peace and security, NAM believes that this objective can still be achieved without resorting to Chapter VII of the Charter.

Fifthly, in view of the importance of all provisions stipulated in the draft resolution, the proposed follow-up mechanism to monitor the implementation of the resolution should be provided with a clearly-defined mandate and terms of reference, including a time frame.

Finally, we are of the view that the substance of the resolution, once adopted by the Council, should form a useful basis for Member States of the United Nations to consider formulating in due course a comprehensive, multilaterally-negotiated legal instrument to address the specific question of preventing the acquisition of WMD by non-State actors in all its aspects.

The Non-Aligned Movement is convinced that the draft resolution could, as intended, help to fill the lacunae currently existing in international non-proliferation regimes concerning the actions of non-State actors relating to WMD. We urge the Security Council to take into consideration our concerns in view of the far-reaching and wide-ranging implications of the decision the Council proposes to take.

The President: I now call on the representative of Mexico.

Mr. Berruga (Mexico) (*spoke in Spanish*): My delegation wishes to underscore the importance and the relevance of this public debate, as the participation of the entire international community is fundamentally important to the maintenance and strengthening of international peace and security.

Mexico notes that the draft resolution seeks to remedy lacunae existing in the existing apparatus of multilateral legal instruments on disarmament and non-proliferation of weapons of mass destruction (WMD). At the same time, it stresses the need to find a way to address the threat inherent in the possibility of non-State actors, particularly terrorist groups, acquiring such weapons.

Given the eagerness to generate a broad consensus, we hope that the sponsors will receive positively the comments made in this open debate, as well as the various proposals for amendment and strengthening that have been presented in connection with the draft resolution.

There must be no doubt about the urgent need to take effective measures to tackle actors not covered by the instruments we have at present.

Mexico believes that it is a matter of grave concern to humankind that extremist groups might gain access to nuclear, chemical or biological weapons. We have recently witnessed, with sadness, that terrorist groups have attacked with increasing brutality, greater frequency and greater indiscriminateness. In that context, concerted, resolute and effective action by the international community is needed. A terrorist attack using weapons of mass destruction would seriously alter coexistence in the world and seriously jeopardize international security and stability. Until now Governments alone have been able to produce weapons of mass destruction. If a terrorist group gained access to them, it would be because the weapons had been stockpiled by a Government institution, either military or scientific. Hence the strict control of arsenals and any means of distribution to terrorist individuals or groups must be a salient priority.

Extremist groups are, by definition, beyond the control and the decision-making power of peace-loving States. Given that reality, the only effective recourse the international community has is to prevent and ensure that terrorists cannot gain access to this type of weapons. We do not have the slightest guarantee that these groups would use weapons of mass destruction for exclusively political purposes. If they have access to them, there will always be the danger that they will use them.

Undoubtedly, the best approach to dealing with the danger posed by weapons of mass destruction would be to embark on their complete elimination through multilaterally-negotiated disarmament agreements. That way, concern about proliferation among individuals, particularly terrorists, as well as among States, would be addressed.

Through the draft resolution before us, the Security Council, invoking Chapter VII of the Charter, wishes to impose on all States Members the obligation to adopt and implement effective laws to prevent non-State actors from manufacturing, acquiring, possessing, developing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems.

The proposed approach is based on an incomplete course of action, which will not necessarily lead to the conditions that are required to achieve the desired objective. Mexico is clear about its doubts regarding the possible establishment of a committee responsible for monitoring the implementation of the draft resolution. We feel that, in defining its mandate, we need to avoid duplicating the functions of other existing bodies, particularly the Counter-Terrorism Committee, whose functions already include the elimination of the supply of all kinds of weapons to terrorists.

However, my delegation is concerned about the precedent that this draft resolution could set for the handling of other new issues on the world agenda. We are not only concerned about the proliferation of parallel regimes to those already established, using channels outside the norms of existing treaties, but also about the growing trend that the Security Council seeks to legislate, particularly with regard to issues that have their own regime of rights and obligations, even if incomplete when it comes to non-State actors. We require resolute commitments from States and, in order to achieve that, we need the wide participation and discussion of all actors.

My delegation wishes to reaffirm Mexico's commitment to the international strategy to combat terrorism. We agree with the importance of addressing all problems associated with the draft resolution before us. In that regard, we consider very appropriate the comments and amendments presented by Brazil, which contain the elements necessary to make the course of action outlined in the initiative more effective.

Finally, as we join efforts to combat terrorism, Mexico believes that we must bear in mind the challenges that my delegation has pointed out and, above all, the collegiate way in which the international community seeks to combat this scourge.

The President: I now call on the representative of Belarus.

Mr. Ivanou (Belarus) (*spoke in Russian*): The delegation of the Republic of Belarus associates itself with the statement made by the representative of Malaysia on behalf of the Non-Aligned Movement (NAM), and concurs with the points made.

Belarus generally welcomes the initiative of the sponsors of the Security Council draft resolution before us, with the major objective of eliminating the threat that weapons of mass destruction (WMD) might end up in the hands of terrorists and their accomplices. Our

country, which has voluntarily renounced possession of nuclear weapons and is an active participant in the disarmament process, is interested in stopping all attempts at the proliferation of WMD throughout the world. We reaffirm our readiness to expand cooperation with other States, within the frameworks of existing international documents and arrangements.

We hope that the efforts of the Security Council in the area of non-proliferation of WMD will not lead to a weakening of existing international disarmament and non-proliferation regimes, but will rather promote their strengthening and further development.

Belarus wishes to express the certainty that only collective action on the part of all Member States and the existence of political will can promote a solution to the severe problems connected to WMD. We consider that any new initiative aimed at resolving these problems will be met with understanding and a positive response on the part of all concerned members of the international community.

The President: I now call on the representative of Norway.

Mr. Løvald (Norway): Let me first echo other delegations in thanking you, Mr. President, for organizing this open meeting of the Security Council to consider the draft resolution on the non-proliferation of weapons of mass destruction (WMD). We appreciate that all Member States are being given an opportunity to present their views before the Council takes action on this draft resolution.

We welcome that the Security Council is addressing the dangers posed by the proliferation of weapons of mass destruction. At the same time, the General Assembly has an important role to play in all non-proliferation efforts.

I would now like to offer some views on the draft resolution. First, Norway agrees that the Security Council should adopt a resolution addressing the most pressing proliferation challenges. The proliferation of weapons of mass destruction (WMD) is a threat to international peace and security. We need the Security Council to send a clear message that taking part in the proliferation of weapons of mass destruction constitutes a serious criminal offence.

Secondly, the draft resolution places far-reaching and legally binding demands on all Member States. It is vital that all States should take the necessary steps to make sure that they can live up to their multilateral non-proliferation obligations. Those steps should cover areas such as national legislation, law enforcement, export controls, border controls and protection of sensitive materials.

Thirdly, the present draft resolution emphasizes the role and relevance of global disarmament and non-proliferation treaties. That is an element to which Norway attaches particular importance. The global treaties have set universal norms, which should be adhered to by all Member States. We call for the full universalization of, and compliance with, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Chemical Weapons Convention and the Biological and Toxin Weapons Convention.

The international community must preserve the integrity and authority of the global treaties and work to further strengthen those instruments. We need credible verification mechanisms. The NPT is a cornerstone of our collective security. The upcoming Review Conference must be used to further strengthen the Treaty.

Fourthly, we agree with the draft resolution's statement that there is a need for further dialogue and cooperation on non-proliferation issues, as well as cooperative action to prevent illicit trafficking in the means of delivery of weapons of mass destruction. The Proliferation Security Initiative represents a very useful response to the new proliferation challenges. Norway is taking an active part in the Initiative. We will also continue to contribute to the Group of Eight Global Partnership, particularly in so far as the safe handling and storage of spent nuclear fuel and radioactive waste is concerned. Let me further reiterate Norway's support for the European Union's strategy to prevent the proliferation of weapons of mass destruction.

Fifthly, Norway welcomes the proposal to set up a committee tasked with making sure that the new resolution is fully implemented. Such a committee should be given enough time to do its work properly. We assume that all relevant expertise will be mobilized in that endeavour.

Non-proliferation and disarmament are two sides of the same coin. The irreversible destruction of stockpiles of WMD is the best guarantee that such weapons do not fall in the wrong hands. Norway is therefore convinced that disarmament must remain an integral component of an effective non-proliferation

strategy. That element should be duly reflected in the resolution to be adopted by the Security Council.

In concluding, Norway agrees that the Security Council should adopt a resolution that will fill critical gaps in international non-proliferation efforts. We hope the draft resolution will be adopted in a timely manner.

The President: I now give the floor to the representative of Australia.

Mr. Dauth (Australia): I have not had an opportunity yet this month to congratulate you, Mr. President, on the efficient way in which you are running the Council. I aim to help by taking rather less than the four minutes that you have allocated to us. I promise.

Australia regards the draft non-proliferation resolution as an appropriate and timely initiative to help strengthen international efforts to combat weapons of mass destruction (WMD) proliferation, including the risk of non-State actor acquisition of WMD.

As a clear threat to international peace and security, WMD proliferation falls squarely within the Security Council's mandate. We recall the Security Council's presidential statement of 31 January 1992 (S/23500), which sets out emphatically the threat posed by the proliferation of all weapons of mass destruction. It has been too long since the Council last dealt substantively with the issue of nuclear non-proliferation. It is entirely appropriate that the Council should do so now, consistent with its mandate to maintain international peace and security.

Recent proliferation cases have demonstrated the critical importance of effective domestic measures, including in particular export controls, in preventing the misuse of sensitive materials and technology at the State or sub-State level. The draft resolution responds to a clear need for Member States to strengthen their domestic controls and legislation and ensure that proliferators do not exploit legislative and enforcement loopholes.

The nuclear black market, coupled with the known terrorist interest in acquiring WMD, underscores the need for quick action from the international community in response to proliferation threats. Unless the international community acts with conviction and unity, terrorist groups could one day acquire WMD, with consequences none of us wishes to contemplate.

The obligations on Member States imposed by the draft resolution in no way conflict with rights and obligations under existing WMD-related treaties. Nor does the draft resolution impose treaty obligations on States not parties to such treaties. The draft resolution, however, does support the effective implementation of those treaties and related instruments and is entirely consistent with the aims of the established, treaty-based multilateral disarmament framework. Of course, the draft resolution does not preclude the future development of new international instruments in those areas.

Australia commends the resolution to all Council members and calls for its early and unanimous adoption.

The President: I now give the floor to the representative of Kazakhstan.

Mr. Kazykhanov (Kazakhstan): Before I start, I would like to thank you, Mr. President, for arranging this open debate on the agenda item under discussion.

My delegation has carefully studied the Security Council draft resolution on the non-proliferation of weapons of mass destruction (WMD). We view the document as an essential instrument designed to reinforce the WMD non-proliferation regime in the new international security environment.

We believe that the main objective of the draft resolution is the adoption by all States at the national level of measures to prevent non-State actors from acquiring WMD and their components. We also believe that the draft resolution to be adopted would help countries achieve that declared goal. At the same time, it is the responsibility of every State to decide for itself which specific steps it should take at the national level in order to secure its borders, sensitive military assets and scientific and research capabilities, thus eliminating any possibility of their use by terrorists.

Yet, in order to be able to fully and effectively implement the provisions of the draft resolution, many countries with extensive land and sea boundaries would require assistance in equipping their borders with modern technical means of detection of the components of WMD and their means of delivery. In our view, effective border controls and well-coordinated law enforcement efforts, including through international cooperation, constitute an important factor that contributes to the reinforcement of the WMD non-proliferation regimes.

Kazakhstan's contribution to WMD non-proliferation is widely recognized. We have voluntarily renounced our nuclear inheritance, shut down the

Semipalatinsk nuclear testing ground, acceded to the Treaty on the Non-Proliferation of Nuclear Weapons, the Comprehensive Nuclear-Test-Ban Treaty and all other regimes on the non-proliferation of WMD and their means of delivery.

We find it very timely that the draft resolution calls on States to take measures to strengthen controls on the manufacturing, storage and export of sensitive materials and technologies. Since 1992, Kazakhstan has been working to improve the efficiency of its national export control system. It has adopted an export control law and introduced a comprehensive control list of dual-use products and sensitive materials.

Kazakhstan has been actively involved in the negotiations to draft a treaty on the establishment of a nuclear-weapon-free zone in Central Asia. That initiative of the Central Asian States to establish such a zone in the region should constitute an important milestone in the efforts to strengthen the non-proliferation regime.

Weakened international control is the main reason for the existence of a threat of non-State actors getting hold of WMD. There is only one solution: to tighten controls and to increase transparency, which should become the pillars of the draft resolution under consideration.

At the same time, we should continue to improve the existing international agreements in this area in order to adapt them to the realities of today. We also believe that non-proliferation and disarmament are mutually reinforcing processes. Compliance with the draft resolution, and its implementation, will largely depend on the political will and on the joint efforts of all States. The effectiveness of the reporting mechanism hinges on this as well.

I wish to assure all members of the Council that Kazakhstan is fully aware of the risk of any irresponsible persons acquiring WMD, and that it will exert every effort to reinforce the international non-proliferation regime.

The President: I now call on the representative of the Republic of Korea.

Mr. Kim Sam-hoon (Republic of Korea): Mr. President, I join the previous speakers in congratulating you on your assumption of the presidency this month and in thanking you for convening this open debate today.

The nexus between terrorism and proliferation of weapons of mass destruction (WMD) has become one of the most pressing international security issues facing the international community today. The recent revelation of the existence of an extensive clandestine international network for the procurement of nuclear equipment and technology, and the thriving illicit trafficking of WMD related materials through this network demonstrates the real danger of WMD falling into the hands of terrorists. Yet, this emergent threat to international peace and security has not been adequately addressed by the existing WMD and non-proliferation regimes.

The Republic of Korea welcomes the initiative of the Security Council as a milestone in the efforts to close the gap between the new realities of the twenty-first century and the existing international non-proliferation regimes. While fully supporting the rationale behind the initiative and the thrust of the draft resolution, the Republic of Korea would like to share some of its observations in this regard.

We know that, as a matter of principle, the normal and most appropriate way to establish new non-proliferation obligations or to supplement the existing non-proliferation regimes, is to negotiate new treaties, or to amend the existing treaties within the framework of treaty-specific bodies. Nevertheless, given the urgency of this dire challenge and the amount of time for a negotiating process involving all Member States, it is fitting and timely for the Security Council to address important loopholes in the existing non-proliferation regimes. We must add, however, that the Security Council's legislative authority should be exercised with caution, and in exceptional circumstances.

We believe that the adoption of a new resolution will bolster and strengthen the existing export control regimes and contribute to the establishment of a universal system of export controls governing the illicit trafficking of sensitive items and technologies. We hope that the guidelines and standards being implemented under the existing export control regimes will provide useful reference for the committee to be established by the resolution in discharging its duties.

Since the new resolution would obligate all States to take domestic measures, including the adoption of national laws, the language of the draft resolution must be clear and unambiguous, to avoid any misinterpretation or discrepancy in its implementation.

We are of the view that the implementation of the resolution at the national level must be ensured through a monitoring mechanism. In order to ensure the effective implementation of the resolution, it is important to avoid any inconsistency between the duration of the monitoring mechanism and the life of the resolution itself.

In concluding, the Republic of Korea assures the Council of its unwavering support for its efforts to address the dangerous linkages between global terrorism and the proliferation of WMD.

The President: I now call on the representative of Argentina.

Mr. Mayoral (Argentina) (*spoke in Spanish*): Mr. President, allow me to begin by conveying to you the thanks of the Argentine delegation for having organized this open debate of the Security Council on the non-proliferation of weapons of mass destruction (WMD). And we wish to welcome the draft resolution on this important issue that is now before us, because it is a matter of concern which affects us all.

We note with interest the fact that the Security Council is taking wide ranging measures to strengthen its role in combating the proliferation of such weapons which are a threat to international peace and security. We take the view that the draft resolution placed before the Council for its consideration sets out to respond to the growing risk of a link between terrorism and WMD — in particular because terrorists may succeed in acquiring and using such weapons. It is plain that the challenge inherent in terrorism, as a real and new threat on the international scene, adds a new dimension to disarmament, non-proliferation and arms control.

A new dimension does not necessarily mean that there is a vacuum or a lacuna in the set of multilateral agreements on disarmament, non-proliferation and arms control. For we believe that they are clear, with regard to the responsibilities undertaken by the States parties. This new dimension should compel us to take real and innovative actions, throughout the international community, to address all situations involving the proliferation of WMD. What is involved here is ensuring that full implementation is given to all disarmament and non-proliferation instruments, working to strengthen them and make them universal. The measures contained in the draft resolution, as we see it, paves the way for this, and will give a fresh political impetus to achieving this objective.

Cooperation with the United Nations and with regional agencies is of vital importance to allow for the efficiency of international endeavours to combat terrorism and to help Member States to fulfil the obligations embodied in legal instruments and in relevant resolutions. We welcome the decision, proposed in this draft resolution, to call for all States to take the necessary measures to prevent WMD and their component parts from falling into the possession of terrorists and other non-State actors.

In this regard, we believe that since this Organization plays a primary role in the preparation of legal instruments for effective adoption and implementation, it could provide assistance to States that do not possess the appropriate legislation in implementing the resolution. Through its regional disarmament centres and with the cooperation of specialized agencies, such as the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons, the United Nations could help prepare legislation that could serve as a model to assist Member States in the adoption of appropriate measures.

Lastly, in our view, it is strange and contradictory that, just when we believed that the non-proliferation and disarmament regime was well on track, new and serious threats to it have emerged. Unfortunately, we remain concerned about the persistence of situations involving the risk of proliferation of weapons of mass destruction because they threaten global stability and the internal security of States.

In this millennium, renunciation of weapons of mass destruction is a top priority. Argentina's active commitment to disarmament, to the non-proliferation of weapons of mass destruction and to arms control is evidenced by our accession to all existing legal instruments and control regimes in this field. We have also established, together with our neighbour and friend, Brazil, a Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials, which has been an innovative reality in this area for over a decade. In this regard, we believe it could serve as a model to be applied in other areas of the world.

For this reason, Argentina, as we have already stated, concurs with the spirit of the draft resolution, since it would establish obligations that Argentina has already assumed and implemented by means of a national commission set up for that purpose. Argentina

is one of the countries that has completed the nuclear fuel cycle. In this regard, we will continue to work tirelessly to ensure that all States renounce the nuclear option and give unequivocal guarantees that their nuclear capacity will be used solely for peaceful purposes.

Likewise, Argentina will commit itself to continue to work actively to fulfil strictly and in good faith the obligations embodied in the Treaty on the Non-Proliferation of Nuclear Weapons, the Bacteriological and Toxin Weapons Convention, the Chemical Weapons Convention and the Comprehensive Nuclear-Test-Ban Treaty. Making these disarmament and non-proliferation instruments universal is a legitimate aspiration for my country and for the entire international community, and is something that we are actively pursuing.

The President: I now give the floor to the representative of Austria.

Mr. Pfanzelter (Austria): Austria fully endorses the statement by the Irish presidency of the European Union on behalf of the Union and would like to elaborate on the following four points. First, I would like to thank the members of the Security Council, in particular the sponsors of the draft resolution, for their timely initiative to address the issues related to nuclear, biological and chemical weapons and their means of delivery. All of us must pursue every avenue to ensure that neither weapons of mass destruction (WMD) nor their means of delivery fall into the hands of non-State actors.

Secondly, Austria is pleased to note that the latest text of the draft resolution reflects in its preambular part the mutual reinforcement of non-proliferation and disarmament, although we would have preferred such a reference in the operative part. My Government considers it important to promote a transparent process of non-proliferation, disarmament and arms control that covers the whole spectrum of nuclear, biological and chemical weapons and their means of delivery. It is also of paramount importance that all States fulfil their obligations under international disarmament, non-proliferation and arms control treaties and arrangements.

Thirdly, the relationship between WMD and the increasing number and variety of their means of delivery merits particular attention. Our experience as Immediate Central Contact for the International Code of Conduct against Ballistic Missile Proliferation, a confidence-building and security-enhancing instrument to which 113 States have so far subscribed, has convinced us of the advantage of emphasizing this aspect in the draft resolution. In this regard my delegation holds the view that operative paragraph 6 (a) should refer not only to international treaties, but also to non-proliferation arrangements.

Fourthly, should the Security Council decide to establish a non-proliferation committee, Austria considers close coordination with the Security Council's Counter-Terrorism Committee, the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons essential to achieving the purposes of the draft resolution.

My delegation would like to thank the members of the Security Council for the transparent and inclusive process employed in addressing this important issue that directly affects each Member State.

I would also like to express our special gratitude to Ambassador Gunter Pleuger for having arranged this open debate. We are looking forward to a follow-up of this highly important process.

The President: I now give the floor to the representative of Jordan.

Mr. Al-Khasawneh (Jordan): At the outset, Mr. President, I would like to express my delegation's gratitude to you for calling for and convening this open debate. I would also like to extend my delegation's appreciation to the sponsors of the draft resolution for the consultations that they have conducted with the broader membership of the United Nations. My delegation wishes to associate itself with the position taken by the Non-Aligned Movement as expressed in the statement delivered earlier by the Permanent Representative of Malaysia on behalf of the Movement.

My country acknowledges the fact that the potential and possibility of the acquisition of weapons of mass destruction (WMD) and their related materials by non-State actors is a clear and present danger and an imminent threat to international peace and security. We realize that there is a gap in the existing treaty regime regulating the issue of non-proliferation that needs to be addressed and attended to. It is imperative to devise effective means and measures that would bring non-State actors within the ambit of the multilateral non-proliferation regime and ensure that the multilateral effort aimed at achieving non-proliferation is effectively extended to guarantee that weapons of mass

destruction and related materials does not end up in the possession of non-State actors and possibly terrorists.

In spite of our belief that the best approach we can adopt to address this matter is to exert efforts to engage in an intensive multilateral negotiation process aimed at developing an international instrument that regulates and addresses this problem, we still feel that, owing to the urgency of the threat that the current gap poses, a measured intervention by the Security Council would be both necessary and appropriate.

My country believes, however, that such a measured intervention by the Council should take into consideration the fact that the most effective and watertight measure to completely preclude the possibility of placing weapons of mass destruction and related materials into the hands of non-State actors is to achieve the long-awaited objective of total chemical, biological and nuclear disarmament.

We feel that any action taken by the Council should take that reality into consideration. Additionally, we believe that the anticipated Council action should ensure that the existing treaty regime is not in any way undermined, amended or altered by such an action. We also believe that the value, validity and binding effect of any anticipated draft resolution to be adopted by the Council on this matter will not be compromised if such a draft is not adopted under Chapter VII, since all Council resolutions are binding, in accordance with Article 25 of the United Nations Charter.

We urge the Council to make every possible effort to further clarify in the anticipated draft resolution the working dynamics for the envisaged follow-up mechanism in a manner that is realistic and effective and that takes into consideration the reality that, for States to effectively comply with the resolution's requirements, they will need significant assistance and sufficient time to do so. We also call on Council members to provide more clarity with regard to certain terms and definitions contained in the draft resolution to facilitate the task of States.

The President: I now give the floor to the representative of Lebanon.

Mr. Kronfol (Lebanon) (*spoke in Arabic*): I thank you, Mr. President, for convening this meeting, which provides States non-members of the Security Council with an opportunity to make their views known regarding the Council's efforts to adopt a universal, binding draft resolution aimed at preventing the proliferation of weapons of mass destruction (WMD) — a draft resolution that Council members will adopt after lengthy consultations to reach a consensus among its members and after taking into account the viewpoints of other United Nations Member States interested in international peace and security, such as Lebanon.

Lebanon — which, like other Arab States, shares the views expressed very clearly a short while ago by the representative of Malaysia on behalf of the Non-Aligned Movement (NAM) — wishes to emphasize that the draft resolution should take into account all the points of view expressed at this meeting so that we can achieve the total elimination of WMD and avert the threat of the proliferation of such weapons, particularly in the Middle East region.

Lebanon, like other Arab States, is a party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and is gravely concerned that Israel is the only State in the region that does not participate in international efforts aimed at establishing a nuclear-weapon-free zone in the Middle East, while it possesses a complete arsenal of nuclear weapons and the means of their delivery that are not subject to any form of monitoring or inspection by the international agency specializing in that area, as well as advanced chemical and biological weapons.

Lebanon would like to ensure that the draft resolution emphasizes that non-proliferation of WMD begins with strict and rigorous inspection of their manufacture and with the continuation of international disarmament efforts.

In order to make the draft resolution more precise and truly practicable, the Council should provide definitions for some of the terms used in the text, which have been referred to by many other States — including NAM member States — or use more precise terms.

Lebanon believes that the very important step to be taken by the international community in adopting a resolution based on the draft before us will prevent States from avoiding their international responsibilities to implement the relevant Security Council resolutions. We should like to pay tribute to the Council's efforts to attain that objective.

Mr. Wenaweser (Liechtenstein): Open debates of the Security Council are an important means of

enabling the Council to hear the view of other Member States and thus to truly act on their behalf, as foreseen in the Charter of the United Nations. We believe that that practice is of particular importance when the Council tackles, on an exceptional basis, issues in the area of standard-setting and lawmaking, as is the case with the subject matter before us today. We thus welcome this debate, and we hope that it will influence the shaping of the draft resolution that the Council will adopt at a later stage. Given the scope of the draft, its acceptance and effective implementation can be ensured only if the views of the wider membership are taken into account.

The proliferation of weapons of mass destruction (WMD), including to non-State actors, undoubtedly poses a very serious threat to international peace and security. The Council has already recognized this threat in the past, and its effective prevention requires a sustained common effort by the international community as a whole. It is thus our hope that the draft resolution to be adopted will prove to be a useful tool to prevent non-State actors from gaining access to such weapons, related technology and hazardous material.

In connection with the draft resolution under consideration, we wish to emphasize the following points. First, the existing regime of multilateral treaties must constitute the basis for our work in the area of non-proliferation. Full implementation, universal acceptance and, where necessary, strengthening of the existing instruments — particularly in the field of verification and monitoring — are indispensable elements of our long-term efforts to work towards the elimination of WMD.

Secondly, non-proliferation, arms control and disarmament are complementary elements of the overall comprehensive effort we must undertake to effectively tackle the threat posed by WMD. The draft resolution under consideration would therefore benefit from the inclusion of a stronger reference to disarmament.

Thirdly, it is essential to maintain the multilateral character of measures taken with respect to non-proliferation. Possible enforcement action must therefore be based on a decision taken by the Security Council. In the same spirit, we support the establishment of a monitoring committee — preferably with a clear time limit and a review mechanism — to engage in a transparent and open dialogue with the membership. Regular and interactive briefings of the chair of such a committee should constitute one important aspect of its work. Furthermore, such a committee should work to implement the resolution while taking fully into account the existing treaty obligations of States, in full cooperation with the relevant institutions, such as the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Security Council's Counter-Terrorism Committee.

We believe that, as a rule, endeavours in the area of non-proliferation and disarmament should be the result of multilateral negotiations. Nonetheless, we believe that the draft resolution under discussion can make a valuable contribution to the crucial issue of non-proliferation if drafted in a precise and balanced manner that reflects all aspects of this complex topic. We are also of the view that the international community, while addressing with resolve the threat posed by weapons of mass destruction, must not lose sight of the fact that most of the massive and large-scale human suffering and loss of life we have witnessed in the recent past has been the result of the use of sometimes very unsophisticated and widely available weapons. We have an obligation to address this very concrete threat and sad reality with equal determination.

The President: I call on the representative of Nicaragua.

Mr. Sevilla Somoza (Nicaragua) (*spoke in Spanish*): The Nicaraguan delegation joins in the congratulations that have been conveyed to you, Sir, on your wise conduct of the presidency of the Security Council. We also thank you for having convened today's important meeting.

The proliferation of all kinds of weapons of mass destruction and their means of delivery is of ongoing concern to the international community because of the threat it represents to the very existence of humankind. That concern first arose during the First World War, in which there was massive use of mustard gas and the spread of infections through pathogenic bacteria. It was on a day like today in 1915 that the town of Ypres in France was attacked with asphyxiating gas by enemy forces. The terrible and massive use of such weapons in that war led in 1925 to the drafting of the Geneva Protocol, which prohibited the use of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare.

In the early 1930s, the League of Nations attempted to achieve a complete prohibition of those

weapons of mass destruction that existed at that time, but it failed. It was only following the Second World War and the creation of the United Nations that some results were seen with the drafting of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, which was adopted in General Assembly resolution 2826 (XXVI) and came into force in 1975.

In 1992, after a decade of intensive negotiations, agreement was reached on the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, which came into force on 29 April 1997. This was the first treaty adopted in the multilateral context to ban an entire category of weapons of mass destruction.

In another connection, a world non-proliferation regime was established on the basis of the 1968 Treaty on the Non-Proliferation of Nuclear Weapons, based on the safeguards system of the International Atomic Energy Agency, with the aim of preventing the diversion of nuclear materials into military and other banned activities. Likewise of great importance is the Convention on the Physical Protection of Nuclear Material of 3 March 1980, which recognizes the legitimate peaceful uses of nuclear energy by States, but charges them with the responsibility of preventing the illegal use or seizure of nuclear material.

Notwithstanding the implementation of those international conventions and other global, regional and bilateral instruments by the vast majority of Member States, transnational terrorist groups have found sophisticated means to circumvent, to a certain extent, the substance of those instruments. The instruments must be strengthened in order to prevent barbaric terrorist acts from unleashing, by means of such weaponry, catastrophes in terms of human lives lost and material damage, such as those reflected in the images recently broadcast on television of Kurds massacred in Northern Iraq by asphyxiating gas in 1988; the 1995 sarin gas attack in the Tokyo subway; or the disastrous consequences of the 11 September 2001 attack in the United States and the 11 March 2004 attack in Madrid. We must also prevent the diversion of nuclear technologies, such as has occurred between countries.

The draft resolution being discussed in the Security Council largely fulfils that purpose. The document appeals to all States to cooperate, in conformity with their national legislation and international law, in adopting measures and establishing domestic controls to prevent any form of support for non-State actors in developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their means of delivery, while establishing domestic controls over such weapons.

It also appeals to all States to cooperate among themselves, in conformity with their national legislation and international law, in preventing the illicit trafficking of nuclear, chemical or biological weapons, their delivery systems and related materials. The draft resolution further urges Member States to promote the universal adoption of, full compliance with and, where necessary, the strengthening of multilateral treaties, particularly those designed to prevent the proliferation of nuclear, biological or chemical weapons.

My delegation recognizes the need to enhance the coordination of efforts at the global, regional and bilateral levels to prevent terrorist acts, which may involve thousands of innocent victims, from recurring. To that end, we believe it necessary to intensify our response to that evil, in keeping with the provisions of the United Nations Charter, since the gravity of such acts poses a threat to humankind and to international peace and security.

The President: I give the floor to the representative of Nepal.

Mr. Sharma (Nepal): I congratulate you, Sir, on presiding over the Security Council's work this month in an excellent manner. I also appreciate the convening of this open debate on this very important issue.

My delegation associates itself with the statement made by the representative of Malaysia on behalf of the Non-Aligned Movement and wishes to add its own comments.

It is indeed welcome that the Security Council has shown serious concern about the possible proliferation of weapons of mass destruction and their means of delivery by non-State actors. The threat of such proliferation is real. Therefore, United Nations Member States have expressed their anxiety about it on many occasions in the past.

In this era of global terrorism of increasing sophistication, the international community ought to

engage in collective efforts to prevent weapons of mass destruction from falling into the wrong hands. For durable success, such efforts must be an integral part of the process of ridding the world of all weapons of mass destruction. As such, my delegation commends the stated objective of the draft resolution and applauds its sponsors for their hard work and ingenuity. However, we have a few fundamental problems that pose enormous difficulties for us.

First, the Security Council lacks competence in making treaties. We are afraid that the Council, through this draft resolution, is seeking to establish something tantamount to a treaty by its fiat. This is likely to undermine the intergovernmental treaty-making process and implementation mechanisms.

Secondly, the proposed draft resolution has no concrete measures that would bring terrorists and other non-State actors into compliance with its own provisions and those of the existing non-proliferation regime. It adds very little of value to the existing disarmament and non-proliferation regime, but it imposes tremendous new obligations on Member States, many of which might not have the necessary resources to meet them. The best way to address the issue would have been to strengthen the existing regime.

Thirdly, the opaque and exclusive decision-making process in the Council does not inspire much confidence among the wider membership of the United Nations. It deprives the majority of United Nations Member States of the opportunity to participate in negotiations leading to agreements and decisions that would have profound and wide ramifications for Member States.

Fourthly, it is completely incomprehensible to my delegation as to why the draft resolution needs to be adopted under Chapter VII of the Charter. The Council, as it appears, wants to keep the option open of using the present draft resolution to impose its will on Member States which could compromise their sovereign rights.

Fifthly, the draft resolution is riddled with ambiguities and many speakers have already highlighted that aspect. The monitoring mechanism envisaged in the draft lacks transparency and its time frame is unrealistic. It is critical that all United Nations Member States feel comfortable with the draft resolution before it comes for action to the floor of the Council. We appreciate the consultations undertaken by the sponsors of the draft resolution before us and encourage them to engage in further consultations to address all key concerns raised here today.

The Council needs the willing support of the broader membership to maintain international peace and security. To ensure such support, the Council should work within its mandate and be seen to be doing so. Therefore, it should resist the temptation of acting as a world legislature, a world administration and a world court rolled into one.

Mr. Ndekhedehe (Nigeria): I wish to join those who spoke before me in congratulating you, Sir for your presidency of the Security Council for this month. The prevalence of acts of international terrorism in recent years and the possibility of terrorist or non-State actors having access to weapons of mass destruction (WMD) have made it necessary for the United Nations to urgently initiate efforts and effective measures to address this serious problem. In this regard, the Nigerian delegation appreciates the motivation behind draft resolution on non-proliferation, which is now before the Security Council. There is, therefore, a need for urgent action.

However, it is important to note that the existence of multilateral instruments on nuclear, chemical and biological weapons, which are invariably the same weapons of mass destruction that the draft resolution is seeking to address. The main aim of the existing multilateral instruments is the total elimination of WMD, which will guarantee their inaccessibility to terrorists or non-State actors.

The Nigerian delegation shares the common view that this objective can only be achieved through commitment by all States parties to their obligations under these instruments. We believe that the threat posed by WMD is of such a serious nature that the international community should deal with it most decisively. In this regard, the international community should not merely manage the existence of such weapons, as the draft resolution seems to suggest; rather my delegation wishes to express its concern that the draft resolution has failed in making disarmament its goal but instead seeks to make non-proliferation the goal.

The apparent intention of the draft resolution is to fill any perceived gap in the existing instruments brought about by the activities of non-State actors, especially terrorist groups, in their use of WMDs. Doing so will certainly require the cooperation of all

United Nations Member States, as envisaged by the draft resolution, on whom it would eventually become binding. For this reason, it is appropriate that the views and concerns of Member States be taken into account in drafting the resolution. In this regard, the aim and spirit of the United Nations Charter concerning international peace and security will be better promoted if matters of WMD and proliferation are multilaterally negotiated, rather than imposed through Council mandates.

By invoking Chapter VII of the United Nations Charter, the draft resolution appears to express the readiness of the Security Council to apply enforcement action against Member States that may fail to comply. There are therefore far-reaching implications when Chapter VII is invoked, depending on the specific circumstances.

Finally, a draft resolution with such grave implications as the one under consideration should be temporary for greater legitimacy and accountability and contain adequate safeguards. Consequently there should be provisions for its replacement by a multilaterally negotiated instrument on the same subject on a more permanent basis.

Mr. Alimov (Tajikistan) (*spoke in Russian*): It is obvious that, despite the vigorous measures undertaken after 11 September 2001 by the international community against the far-flung network of terrorist organizations, terrorism is continuing to pose a serious threat to international peace and security. The number of terrorist attacks and the number of victims, unfortunately, is growing and the number of geographic sites where such acts are committed is increasing. There is also a serious danger that weapons of mass destruction (WMD) might fall into the hands of terrorists and non-State actors which would lead to unpredictable consequences. The delegation of Tajikistan finds extremely timely the convening of the present public meeting of the Security Council on such a problem which is so important for peace and security today.

We consider today's discussion as yet one more consistent step by the Council designed to strengthen unity and the will of the international community in combating international terrorism and the growing global black market in nuclear materials.

Tajikistan is now on the front lines of a struggle against international terrorism and is an active party to the anti-terrorist coalition within the framework of the Commonwealth of Independent States and the Collective Security Treaty. My Government is cooperating to combat terrorism, inter alia, regarding the protection of nuclear materials.

At the same time, we are seriously concerned by the fact that the remnants of the Taliban and Al Quaeda movements and other extremist forces in neighbouring Afghanistan are once again trying to make themselves known by means of stepping up their acts of sabotage.

The issue is not merely that these forces are trying, once again, to plunge a country which is emerging from under the ashes of a 20-year-long civil war back into a climate of chaos, strife and inter-ethnic enmity, although that, in itself is dangerous. Rather, what is a much more serious danger is that a process is taking place whereby these dark forces are uniting with drug cartels acting as a form of creditor/bank/network of terrorist organizations which is concocting plans to acquire weapons of mass destruction here.

The adoption by the Security Council of the relevant resolution will make it possible, in our view, to strengthen, where necessary, the mechanism of strict export controls and to ensure full security for secret materials in the area of weapons of mass destruction.

It is important that the draft resolution not undermine or replace existing international non-proliferation and disarmament treaties and that it explicitly state that it is not changing the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention or the Biological and Toxin Weapons Convention. As a party to those international treaties, we will expand our cooperation with other States parties and with the International Atomic Energy Agency.

Tajikistan supports the adoption of the draft Security Council resolution on this issue. We believe that its implementation would enhance the effectiveness of the coordination of efforts on all levels. It would be one further element of a unified response to today's challenges and threats to international peace and security.

The President: I now give the floor to the representative of Albania.

Mr. Dilja (Albania): At the outset let me reiterate that, as stated by Ambassador Ryan of Ireland, Albania fully associates itself with the statement he made on

behalf of the European Union. I shall therefore make only a few brief comments on the item before the Council.

Allow me to express my delegation's appreciation to you, Mr. President, for convening this open debate, which gives non-members of the Security Council the opportunity to express our views on the very important issue of a draft resolution on non-proliferation of weapons of mass destruction (WMD).

Every one of us, and all our countries, together have the obligation to make the world a better and a safer place. Particularly today, when terrorism is seriously threatening to use a variety of means against every country and every people in the world, we have the duty of collective mobilization and vigorous action to fight it, with clear goals and positive results. We consider the draft resolution under consideration to be the right step and a further measure in that direction.

Unfortunately, no region, no country, no nation and no border is immune from terrorism in a broader sense or, in particular, from the barbarous danger of the proliferation of WMD and their delivery systems. The prospect of weapons of mass destruction falling into the hands of terrorists or other non-State actors is a growing and paramount threat to international peace and security. The threat is real. It is thus a challenge that we must address collectively and resolutely. The events of 11 September 2001 and other horrible terrorist acts in other cities of the world have taught us the lesson that those who would direct attacks against innocent civilians with conventional weapons should be assumed to be equally willing to commit atrocities with weapons of mass destruction. That prospect convinces us all that this problem must be addressed every day, on every front, in an effective and collective way. The sooner we take preventive measures, the sooner we take action, the better.

We recognize the draft resolution on this issue as an entirely appropriate measure to counter that threat, a threat we all agree is very serious. We recognize it as an appeal to every State to prevent the proliferation of weapons of mass destruction. We consider the draft resolution to be a necessary and important document which complements but does not undermine existing multilateral treaties and conventions and which calls on States to renew their commitment to multilateral cooperation in the framework of the International Atomic Energy Agency (IAEA) and other international bodies. We think it will provide an additional useful tool for all States members of the international community to combat this new dimension of the threat posed by weapons of mass destruction.

Albania welcomes and supports the draft resolution and will remain committed, as required, to developing and maintaining any appropriate effective measures and to adopting and enforcing any appropriate effective laws to help prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery.

Our delegation appreciates the fact that this draft resolution is already sponsored by a number of permanent and non-permanent members of the Security Council. We would like, in conclusion, to commend the Council and the sponsors of the draft resolution, and to echo the confidence expressed by other speakers that the draft resolution will ultimately enjoy widespread support.

The President: I now give the floor to the representative of Namibia.

Mr. Andjaba (Namibia): Since this is the first time I am taking the floor in the Security Council this month, allow me, Sir, to extend my congratulations to you on your assumption of the presidency of the Council for the month of April. Similar sentiments are also extended to your predecessor for the excellent manner in which he guided the work of the Council last month. Let me also associate myself with the statement made by the Permanent Representative of Malaysia on behalf of the Movement of Non-Aligned Countries.

Namibia, like other countries, shares the global and legitimate concern about the fear that non-State actors could acquire weapons of mass destruction and related technology. In today's world characterized by international terrorism, it is increasingly obvious that possession of these weapons is a threat to international peace and security. So long as such weapons exist, some will always aspire to have them. The only effective means of preventing non-State actors from acquiring weapons of mass destruction, including nuclear weapons, is the complete elimination of such weapons and the assurance that they will never be produced again.

The problem is that those States that have such weapons are unwilling to eliminate them. Instead, they are preoccupied with preventing others from acquiring them. At the same time, they continue to modernize their weapons, in the name of national security. If all States parties to the Nuclear Non-Proliferation Treaty,

the Chemical Weapons Convention and the Biological and Toxin Weapons Convention had faithfully implemented their commitments under those instruments, the world would have been rid of the most dangerous weapons and technology that exist. The security that all of us are entitled to can be achieved only by our meeting our commitments assumed under those multilateral treaties and related agreements.

The non-proliferation of weapons of mass destruction is a universal concern, requiring the engagement of the whole membership of the United Nations. Under the current international law regime, which recognizes the sovereignty of States, the affected States should take part in the negotiation of any measure that seeks to impose obligations over and above existing treaties and conventions. That is why my delegation believes that the issue we are discussing here today belongs in the General Assembly, whose membership will be required by the terms of this draft resolution to at least align their national laws with it if these measures are to be implemented effectively.

Namibia recognizes that there are gaps in the existing multilateral legal instruments which need to be filled. However, such gaps can be filled by multilateral negotiated instruments and should not be filled by Council measures, which are unbalanced and selective, as they represent only the views of those who drafted them.

We hope that the measures envisaged in the draft resolution will be temporary, to be replaced later on by a legal negotiated instrument.

The President: I call next on the representative of Kuwait.

Ms. Al-Mulla (Kuwait): While my delegation associates itself with the statement made by Malaysia on behalf of the Non-Aligned Movement (NAM) countries, it also welcomes and lends its moral and political support to the draft resolution. We would like to highlight the following points.

It is of the utmost importance that we continue to strengthen multilateral institutions and fully implement international treaties dealing with issues of disarmament and non-proliferation, which we consider mutually reinforcing processes. All Security Council resolutions are legally binding on Member States, in accordance with Article 25 of the Charter. We agree that a gap exists within the international treaty regime, which does not address the nexus between weapons of mass destruction and non-State actors.

This draft resolution could be an interim solution until that gap is addressed fully at a later stage. We also believe that the nature of this draft resolution, as well as possible future actions, should be based on a broad consensus in the international community. It is well known that we have our own regional concerns on this issue, but we stress that other regions have responsibilities and obligations with regard to non-State actors and weapons of mass destruction. This issue is a collective responsibility that requires cooperation and commitment by one and all.

Lastly, Kuwait will cooperate fully in the implementation of this draft resolution once it is adopted.

The President: I call on the representative of Thailand.

Mrs. Laohaphan (Thailand): Thailand commends the Security Council for convening today's open debate, which combines two security issues of grave concern in our time — proliferation of weapons of mass destruction (WMD) and the risk that they may fall into the hands of non-State actors, particularly terrorists, who will use them indiscriminately to the detriment of civilians.

As a member of the Non-Aligned Movement (NAM), Thailand associates itself with the statement delivered earlier by the Permanent Representative of Malaysia, and wishes to add additional comments of its own. In recent years, the world has witnessed a surge in terrorist attacks, and no State can afford to remain placid. The possibility of terrorists wreaking havoc through the indiscriminate use of weapons of mass destruction is no longer a far-fetched scenario. As the world continues to wage war against terrorism on all fronts, it is vital to step up international efforts to address the proliferation of weapons of mass destruction, their delivery means and related materials and to prevent them from falling into the hands of terrorists.

The draft resolution on WMD under scrutiny in the Council will help bridge the gap in international law pertaining to non-State actors in a timely manner. However, as long as WMD continue to exist, this draft resolution can only partially counter the threat posed by these weapons to international peace and security.

Thailand continues to stress the importance of reinforced compliance and verification of key international WMD non-proliferation treaties and conventions, particularly the Treaty on the Non-proliferation of Nuclear Weapons, the Comprehensive Nuclear-Test-Ban Treaty, the Chemical Weapons Convention and the Biological Weapons Convention.

We are also of the view that progress is urgently needed in the area of disarmament. In order to contain and completely safeguard the world from the risk associated with WMD, non-proliferation and disarmament must go hand-in-hand. With regard to specific provisions of the draft resolution, Thailand welcomes the establishment of a committee to report on the implementation of the draft resolution, as provided for in operative paragraph nine, and notes with appreciation that the Council also recognizes under operative paragraph five that some States may require assistance in implementing the resolution. However, we think that the timeframe of implementation of 90 days is rather an arduous task and gives rise to difficulties in practice. It would also be helpful if the draft resolution would spell out in clear terms and in greater detail the scope of obligations required of Member States.

The President: I have no more speakers on my list. The Security Council has thus concluded the deliberation of this item at this stage.

The meeting rose at 4.50 p.m.

United Nations S/PV.4951

Security Council

Fifty-ninth year

Provisional

4951st meeting

Friday, 23 April 2004, 10 a.m.

New York

President:	Ms. Müller	(Germany)
Members:	Algeria	Mr. Baali
	Angola	Mr. Lucas
	Benin	Mr. Zinsou
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Wang Guangya
	France	Mrs. D'Achon
	Pakistan	Mr. Akram
	Philippines	Mr. Baja
	Romania	Mr. Stamate
	Russian Federation	Mr. Gatilov
	Spain	Ms. Menéndez
	United Kingdom of Great Britain and Northern Ireland	Mr. Thomson
	United States of America	Mr. Holliday

Agenda

The situation in the Middle East, including the Palestinian question

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-32015 (E)

The meeting was called to order at 10.15 a.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East, including the Palestinian question

The President: In accordance with the understanding reached in the Council's prior consultations, and in the absence of objection, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Terje Roed-Larsen, Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General.

There being no objection, it is so decided.

I invite Mr. Roed-Larsen to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Terje Roed-Larsen, Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General. I now give him the floor.

Mr. Roed-Larsen: Today, my report on the situation in the Middle East marks a departure from our traditional monthly briefings. Although more innocent victims have, tragically, fallen on both sides, I will not update the Council on the recent upsurge in violence. I will not caution against a vicious circle of violence and retribution or comment on the specifics of the latest terrorist attacks, the latest incursions or the latest assassinations. Nor will I spell out their impact on the tension in the region. The Secretary-General has clearly stated his positions on all those issues, and the Council debated them at length this week. And, unlike in previous briefings, I will not present the Council with the disheartening details of the tragic humanitarian situation in the West Bank and Gaza, and the dire conditions that United Nations agencies are steadfastly working to mitigate. Council members are all too aware of — and familiar with — those problems.

Instead, I will focus my briefing on what I see as a crucial and potentially seminal juncture for peace efforts in the Middle East. The choices that the parties make, and the paths that they take, will shape the future of Middle East peace for many years to come. I will articulate those choices and will sketch alternative paths shortly. But before I get to them, I would like to emphasize that I fully acknowledge that there is no magic formula for Middle East peacemaking. However, a critical lesson from three years of violence and bloodshed is that only an overall political settlement can reverse the deteriorating security, humanitarian and economic situations both in the occupied Palestinian territories and in Israel. That is why my briefing to the Council today will focus on just that: the real chance for a political solution to the Israeli-Palestinian conflict.

Two months ago, before the Council, I described the Government of Israel's recently announced Gaza withdrawal initiative as a courageous step that could lead to a meaningful revival of the peace process. I praised Prime Minister Sharon for his historic decision to bring the settlers back to Israel and to hand occupied territories back to the Palestinians. In my February briefing, I said, in the context of the Israeli-Palestinian conflict, that

> "No Israeli prime minister has previously had the boldness and the vision to say he will remove settlers — as long called for by the international community — and initiate a plan for its implementation. The proposed step — withdrawal from occupied territory — should be welcomed by all." (*S/PV.4912, p. 2*)

I also said that that step could revive a meaningful peace process by re-engaging the parties and the international community. That in turn could lead to full implementation of the road map and to the realization of the vision of two States, Israel and Palestine, living side by side in peace and security.

Not many shared my optimism at the time, and perhaps even fewer do so today. Some look at the events of the past two weeks as proof that the Government of Israel is avoiding its commitments under the road map and that instead it is attempting to pre-empt the outcome of negotiations to deny the Palestinian people their basic rights. Others look at the Palestinian reaction to Prime Minister Sharon's announcement as proof that the Palestinian Authority is not ready to live up to its road map commitments and

that it is unprepared to assume its responsibilities in vacated Palestinian areas. According to the proponents of those views, it is only a matter of time before havoc and chaos erupt, drawing the parties deeper into conflict and despair.

I choose not to share that pessimism. I still believe that the Gaza withdrawal, if carried out in the right way, can usher in a new era of peacemaking in the Middle East. I also continue to maintain that, if such a withdrawal is implemented in the wrong way, it will lead to more violence, quite possibly bringing us to a new low in the dismal annals of the Palestinian-Israeli tragedy. That is the crossroads at which we find ourselves today.

As I see it, only a rigorously engaged international community, led by the Quartet and by the Council, can enable the parties to make the right choice. Needless to say, any Israeli withdrawal from the West Bank and Gaza that restores Palestinian rights is a welcome development. The withdrawal plans will deliver almost the whole remaining 40 per cent of the Gaza Strip to the Palestinians, in addition to the 60 per cent that was handed over to the Palestinian Authority 10 years ago. They will also include withdrawals in the north of the West Bank. The international community should certainly lend a hand to see that the Palestinians recover their land in Gaza and to ensure that other steps in the same direction follow in the West Bank.

But, for the Gaza withdrawal to mark the beginning of an era of peace and security and a departure from decades of violence, it needs to contain two main elements.

First, the withdrawal should constitute an end of the occupation of the Gaza Strip — not merely a military redeployment — and should be recognized as such by the international community. In other words, the withdrawal should be full and complete, and it should lead to the consolidation of Palestinian control over its territory and international crossings.

Occupation will end only when Palestinians gain control over their affairs in Gaza, when they go about their daily lives without being subjected to Israeli controls, when they live free from the fear of yet another military incursion in their cities and villages and when they can travel to other countries from their territory free from Israeli control. For that to happen, robust and reliable security and administrative arrangements are needed for post-withdrawal Gaza.

The withdrawal from Gaza confronts Israel with a security dilemma: if it withdraws completely but in a context of hostility and mistrust, Gaza could become a launching pad for more attacks against its own territory. If it retains control over territory in, or international access to, Gaza, the occupation continues, and so, most probably, would violent acts against Israel. That would defeat the very purpose of the withdrawal plan.

One way to resolve this dilemma is through temporary and internationally supervised security arrangements. An international presence, with the consent of the parties, would enable Israel to withdraw completely from Gaza and free itself from the occupation. It would also enable the Palestinians to live normally, free from Israeli controls, while rebuilding their shattered security capabilities and fighting terrorism and violence in cooperation with regional and international players.

The second element is that the withdrawal should be accompanied by the implementation of other Palestinian and Israeli obligations under the road map. That is a way of ensuring that the withdrawal constitutes the beginning, and not the end, of a peace process and is an integral part of the Quartet's road map.

Meanwhile, the Palestinian Authority must immediately reorganize its ailing security system under the authority of an empowered Interior Minister and, with the help of its partners, must start taking effective measures to curb violence and terror. Let me put this in the clearest possible terms: there is no excuse for the Palestinian Authority to avoid fulfilling that obligation any longer. Fighting terrorism is not a payoff that depends on the reciprocity of Israeli measures. Terrorism is against international law, and the Palestinian Authority must do everything in its power to end it once and for all. The international community will judge the Palestinian Authority first and foremost by acts in that field.

While preparing for the withdrawal, Israel should immediately remove all settlement outposts erected since March 2001 and completely freeze settlement activities throughout the West Bank. There is no excuse for Israel to avoid that obligation. Settlement activities are also against international law and must come to an end.

To put it another way, the withdrawal from Gaza must be part of the implementation of the road map,

not a substitute for it. The past failures of the parties to implement the road map cannot be a justification for shelving it. In fact, the Gaza withdrawal plan could become a historic opportunity leading to full implementation of the road map.

Allow me to explain why this is necessary. The road map represents the consensus of the international community on how to resolve the protracted Arab-Israeli conflict in a realistic, gradual and comprehensive way, encompassing the Syrian and Lebanese tracks. It has been accepted by both parties and endorsed by the Security Council, the Quartet and regional partners. No previous peace plan has enjoyed such a broad and deep level of support.

The road map tackles both immediate concerns and final status issues, which I will address in turn. Regarding the immediate concerns of security and territory, the road map lays out concrete, reciprocal and parallel steps that both parties should take to reverse the current situation. Security and territory are the most pressing issues of the current conflict and are also the key to any progress.

On security, the core obligation on the Palestinian Authority is the following — and here I quote the text of the road map.

> "Palestinians declare an unequivocal end to violence and terrorism and undertake visible efforts on the ground to arrest, disrupt and restrain individuals and groups conducting and planning violent attacks on Israelis anywhere.
>
> "Rebuilt and refocused Palestinian Authority security apparatus begins sustained, targeted and effective operations aimed at confronting all those engaged in terror and dismantlement of terrorist capabilities and infrastructure. This includes commencing confiscation of illegal weapons and consolidation of security authority, free of association with terror and corruption." (*S/2003/529, annex*)

On security and territory, the core obligation on the Israeli side is the following.

> "[The Government of Israel] takes no actions undermining trust, including deportations, attacks on civilians; confiscation and/or demolition of Palestinian homes and property as a punitive measure or to facilitate Israeli construction; destruction of Palestinian institutions and infrastructure; and other measures specified in the Tenet work plan.
>
> "...
>
> "The Government of Israel immediately dismantles settlement outposts erected since March 2001.
>
> "Consistent with the Mitchell Report, [the Government of Israel] freezes all settlement activity, including natural growth of settlements." (ibid.)

Unfortunately, as the Secretariat has already informed the Council, both parties have failed to meet their road map obligations.

The Government of Israel has not dismantled the settlement outposts, implemented a settlement freeze or abstained from taking measures undermining trust. In fact, by the time the road map implementation collapsed last year, settlement outposts had actually increased. Large tracts of Palestinian land were confiscated for the construction of the barrier, which has directly impacted tens of thousands and has made the Palestinians wonder whether they will ever have a viable and independent State. The International Court of Justice is currently deliberating this issue and is expected to give its opinion soon. Also during the attempted implementation of the road map, many Palestinians were killed, including an alarming number of women and children. Meanwhile, extrajudicial assassinations continued, plunging the Palestinian population into a new wave of anger and despair.

Despite the best efforts of Mahmoud Abbas, a Prime Minister committed to peace, the Palestinian Authority failed to curb violence or reorganize its security services under the authority of an empowered Interior Minister. Terrorist attacks continued, claiming more innocent Israeli lives and drawing more Israeli scepticism about the presence of a Palestinian partner for peace. Unable to exercise his powers, Mr. Abbas resigned, bringing the implementation of the road map to a halt. Since then, and despite the goodwill of current Prime Minister Ahmed Qurei, also a man of peace, the Palestinian Authority's credibility is diminishing. In fact, the Palestinian Authority has reached a state of near paralysis.

The aforementioned immediate concerns need to be tackled — and can be tackled — if we are to get to the second key component of the road map: final status

issues. The road map paves the way for the resumption of negotiations aimed at reaching a "final and comprehensive permanent status agreement that ends the Israel-Palestinian conflict in 2005". That agreement — and here I quote the road map,

> "... will resolve the Israel-Palestinian conflict, and end the occupation that began in 1967, based on the foundations of the Madrid Conference, the principle of land for peace, [United Nations Security Council] resolutions 242 [(1967)], 338 [(1973)] and 1397 [(2002)], agreements previously reached by the parties, and the initiative of Saudi Crown Prince Abdullah — endorsed by the Beirut Arab League Summit". (ibid.)

The road map states those carefully worded parameters, which reflect the consensus of the international community, for a reason: to reassure the parties that a final peace agreement would guarantee their fundamental demands.

Palestinians need to be reassured that a final status agreement will respect their basic rights, enshrined in so many United Nations resolutions, regarding the refugees, the settlements, the status of Jerusalem and the borders. Israelis need to be reassured that the final peace agreement will really be final, putting an end to the conflict and to the claims associated with it, ending terror and violence and leading to Israel's acceptance by all its neighbours. They also need to be reassured that the resolution of the conflict will be based on a negotiated, fair and realistic deal. By articulating such a political horizon to the parties, the road map aims to embolden them to perform the most difficult immediate tasks, notably on security and territory. That is why the road map is called hope-driven and performance-based. It is our firm belief that both dimensions should be maintained.

However, while the road map provides us with the means to get to the final status, the international community will not prejudice the outcome of final status negotiations. Those are matters for the parties.

As a member of the Quartet, we emphasize that no declared views on the possible shape of a final settlement can pre-empt the negotiations on that settlement. This would destroy the hope that drives the road map and erode the parties' ability to perform the tasks it stipulates.

Today, as Prime Ministers Sharon and Qurei have repeated their commitment to the road map, there is a real chance for the implementation of the road map. There is no excuse for further delays, and both parties must take immediate steps towards the implementation of their obligations. Sadly, it is unrealistic to expect that the parties, mired in a violent relationship devoid of almost any trust, will — left on their own — take all the decisions necessary to return to the path to peace. Therefore, it is incumbent on the international community, with the Security Council at the fore, to lead the parties towards a viable solution. The Security Council has, needless to say, the mandate and the responsibility to restore peace and security in that part of the world. Above all, it has the authority and legitimacy to intervene in a way that will ensure the consent of all parties concerned.

In fact, the Security Council has already taken ownership of the Middle East peace process. The foundations of that process are derived both directly and indirectly from its resolutions. By adopting resolution 1397 (2002), the Council enshrined the end goal of the peace process: the vision of two States, Israel and Palestine, living side by side in peace and security. The Council also adopted the way to achieve that goal, the road map, in its resolution 1515 (2003).

Withdrawal from the Gaza Strip set the stage for the next step of the Council's stewardship over the process. In that regard, Israel itself set a precedent with its withdrawal from south Lebanon. As is the case today, direct negotiations between the parties over the terms of the withdrawal from Lebanon were not possible. Israel, therefore, had wisely asked the Secretary-General to help facilitate the withdrawal. Based on a report by the Secretary-General, the Security Council issued a statement defining the parameters of that withdrawal. The statement also set obligations for both sides and asked the Secretariat to work with all parties in order to ensure their compliance with those obligations. Once Israel had fully honoured its obligations, the Council adopted another resolution certifying Israel's conformity with previous resolutions, concluding that the occupation of southern Lebanon had ended and setting parameters for the parties' responsibilities afterwards. As is the case today with the Gaza withdrawal proposal, a unilateral initiative was implemented in full coordination with the international community and the peace partners on the ground. The parameters for success of the Gaza

withdrawal are clear for all to see, and they can only be derived from the parties' obligations under the road map.

Crucial choices lie ahead of us. The Government of Israel could choose to travel the road that leads to a genuine revival of the peace process and, with the assistance of the international community, create conditions that would help the Palestinian Authority to act decisively against violence and terror. It could, however, choose to travel down the path that leads in the opposite direction.

Similarly, the Palestinian leadership could choose to reorganize itself and act decisively against terror and violence. With the assistance of the international community, Palestinian Authority President Arafat could choose to take a historic action in order to reinvigorate and refocus the Palestinian Authority, end the current vacuum and paralysis and revitalize the Palestinian leadership. Such action would address the Palestinian Authority's frustrating and increasing credibility deficit and therefore engage Israel on the track of peace. The Palestinian Authority, however, could also choose inertia or to travel down the path that leads in a different direction.

For its part, the international community could choose vigorous involvement at this stage, helping to transform the Gaza withdrawal plan into a full implementation of the Quartet road map and bringing the parties back to the track of peacemaking based on international legitimacy. That choice would have tremendous implications for the peace and security of the entire Middle East, and I urge the Council and the rest of the international community to seriously consider it. Or, the international community could decide to stand by and watch events as they unfold.

I dread to think of the consequences of such a choice, stemming from a continued delusion on both sides of the divide that by force alone victory can be achieved by either side. May I remind the members of the Council of the words of Bonaparte: "nothing permanent is founded on force". Or, as British diplomat and scholar Robert Cooper has put it,

> "Ultimately there are two sources of power: force and legitimacy. People obey out of fear of violence or out of respect for authority. Civilization and order come from putting force at the service of legitimate authority ... Force without legitimacy brings chaos; legitimacy without force will be overthrown."

The President: I thank Mr. Roed-Larsen for his comprehensive briefing.

In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussions on the subject.

The meeting was adjourned at 10.40 a.m.

United Nations S/PV.4952

Security Council

Fifty-ninth year

Provisional

4952nd meeting

Tuesday, 27 April 2004, 3.30 p.m.
New York

President:	Mr. Pleuger	(Germany)
Members:	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Sardenberg
	Chile	Mr. Muñoz
	China	Mr. Wang Guangya
	France	Mr. de La Sablière
	Pakistan	Mr. Akram
	Philippines	Mr. Baja
	Romania	Mr. Motoc
	Russian Federation	Mr. Gatilov
	Spain	Mr. Arias
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Negroponte

Agenda

The situation between Iraq and Kuwait

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room C-154A.

04-32435 (E)

The meeting was called to order at 3.35 p.m.

Adoption of the agenda

The agenda was adopted.

The situation between Iraq and Kuwait

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Lakhdar Brahimi, Special Adviser to the Secretary-General.

It is so decided.

I invite Mr. Brahimi to take a seat at the Council table.

The Security Council will now begin its consideration of the item on its agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

At this meeting, the Security Council will hear a briefing by Mr. Lakhdar Brahimi, Special Adviser to the Secretary-General, on whom I now call.

Mr. Brahimi: I am delighted to speak under your presidency today, Sir, in order to brief the Council on Iraq.

Members will recall that the Security Council, in its presidential statement of 24 March 2004, unanimously welcomed and strongly supported the Secretary-General's decision to dispatch a team, which I was privileged to lead, as well as an electoral assistance team, in order to lend assistance and advice to the Iraqi people in the formation of an interim Iraqi Government to which sovereignty will be transferred on 30 June 2004, as well as in the preparations for direct elections to be held before the end of January 2005.

As members will also recall, the Secretary-General took that decision in response to explicit requests from the Iraqi Governing Council and the Coalition Provisional Authority, on 17 March 2004, for United Nations assistance in those two specific areas.

Accordingly, as instructed by the Secretary-General, I visited Iraq from 4 to 15 April. Prior to reaching Iraq, I was privileged to represent the Secretary-General at the International Conference on Afghanistan, held in Berlin on 31 March and 1 April. There I had the opportunity to discuss the situation in Iraq with Chancellor Schröder and his Foreign Minister, Mr. Joschka Fischer, as well as with the representatives of other Security Council member States, including the Foreign Ministers of China and of the Russian Federation, the Foreign Secretary and the State Secretary for International Development of the United Kingdom, and the Secretary of State of the United States of America.

In addition, in Berlin, I met with the Foreign Minister of Ireland, which now holds the presidency of the European Union; the Deputy Foreign Minister of Iran; the Japanese Prime Minister's Special Representative; as well as the External Relations Commissioner of the European Union and His Highness the Agha Khan.

On route back from Iraq, in Kuwait City, I had a chance to meet with the Foreign Minister of Kuwait. On the way back to New York, I was able to have an audience in Rome with President Ciampi and Prime Minister Berlusconi, and in Paris with President Jacques Chirac, in addition to meeting separately with the respective Foreign Ministers of both countries. In Paris, I met also with the Foreign Minister of Iran, who was himself visiting a number of European capitals, and the Prime Minister of Lebanon.

While in Iraq, I was accompanied by my spokesperson and three political advisers, who had been in Iraq for approximately one week in advance of my arrival in order to help prepare for the visit.

Concurrently with our visit, Carina Perelli, the Director of the Electoral Assistance Division in the Department of Political Affairs, was leading an electoral mission composed of a similarly sized team.

I very much appreciate this opportunity to brief the members of the Council on our visit as well as to outline a few ideas on the potential way forward. I look forward to hearing the Council's reactions and advice.

As the Council is are aware, I previewed some of my tentative thoughts in public on the eve of my departure from Iraq, on 14 April, at a joint press conference in Baghdad with the Chairman of the Interim Governing Council for this month, Mr. Massoud Barzani. I had wanted to be as transparent as possible and to give the Iraqi leaders and public at large as clear an idea as possible of those preliminary

thoughts. Thus, much of what I will outline today should not come as a surprise.

The Council will note, however, that some ideas have been clarified based on the reactions that we are already hearing from various quarters in Iraq. Furthermore, I have now had a chance to brief the Secretary-General more fully and to obtain his guidance and advice. But our plans for the way forward remain very much a work in progress.

I think that, before getting into the details on possible avenues for the way forward, it is important to describe for the Council the context within which this visit took place.

The security situation, above all else, was and remains extremely worrying. An atmosphere of great tension and anxiety persists in the face of the siege of Fallujah, the Mahdi army's uprising in the south, and the general increase in violence up and down the country.

The hopes for a peaceful resolution to the stand-off in Fallujah which the Secretary-General has repeatedly expressed in the past weeks, including to the United States Secretary of State, Colin Powell, have not yet materialized. As a matter of fact, just before coming in, we saw that major fighting was taking place, and therefore my remarks on the subject of Fallujah seem to have been overtaken by events.

On 22 April, staff of the United Nations Assistance Mission for Iraq (UNAMI), now based in Amman, received a delegation from Fallujah. That delegation claimed that several hundred of Fallujah's inhabitants had died and that well over 1,000 had been wounded — many of them women, children and the elderly. The United Nations is not in a position to verify those figures or the causes of death and injury, but there is little doubt that many lives have been lost and much suffering endured by civilians.

You also saw on television screens yesterday images of yet another mosque which had taken a direct hit. Reports today of attacks from and on that mosque are a source of shock and dismay. The United Nations has been active in trying to do whatever it can, appealing for restraint and working with Iraqi non-governmental organizations, the International Committee of the Red Cross (ICRC) and others to provide some humanitarian relief to the civilian population. However, that is just a stopgap measure. Talks between the Coalition Provisional Authority and representatives from the city have been ongoing for some time now. They had secured an uneasy ceasefire, which, I am afraid, has now been overtaken by events, as I said earlier. Nevertheless, the Coalition Provisional Authority is well aware that, unless the standoff — and now the fighting — is resolved through peaceful means, there is a great risk of a very bloody confrontation. The Coalition Provisional Authority knows as well as — indeed, better than everyone else — that the consequences of such bloodshed could be dramatic and long-lasting.

The same is true of the extremely precarious and complicated situation in Najaf and in Karbala. They are among the holiest and most beloved of cities for millions of Shi'a in Iraq and around the world. They are places for worship, not for military confrontation. We join our voices to those of the many respected religious leaders and others in Iraq who have been appealing for respect for the rule of law and for an early, peaceful resolution of this crisis.

The nature of these dynamics, together with the general insecurity prevailing in the country, certainly had an impact on our visit. It prevented us from meeting a number of important religious, political and tribal figures whose advice and views are of great importance. In addition, our movements, even within Baghdad, were severely restricted. Had the Coalition Provisional Authority not dedicated a great deal of manpower, time and attention to our visit, the latter might well not have taken place at all. I take this opportunity to express our sincere appreciation to the Coalition Provisional Authority for all the support that it provided.

Even under those circumstances, however, our team was able to meet with a large number of Iraqis drawn from across society — politicians, civic and religious leaders, women's groups, academics, intellectuals, artists, and businessmen and merchants, among others — not only in Baghdad, but also in Mosul and in Basra. We were humbled by the many Iraqis who faced the perils of travel in today's Iraq and even inside Baghdad in order to meet with us. We are profoundly sorry that we failed, because of security constraints, to meet with some of them.

A key question is whether a credible political process is even viable under such circumstances. It is important to note, in this context, that the limited task

we are presently engaged in — which is only the formation of an administration to assume responsibility as of 30 June — is part of a much broader political process, and that this political process has to be seen against the background of the realities that made it necessary: namely, war and occupation and, before that, a very harsh and brutal regime, and severe, even crippling sanctions, not to mention two earlier devastating and costly wars.

The political process aims at restoring Iraqi sovereignty and independence, preserving the country's unity and territorial integrity and making the Iraqi people truly the masters of their own destiny, with the political system of their choice and control over their own natural resources.

So, is it possible for the process to proceed under such circumstances? Will it be viable? Will it be credible? I put it to the Council that there is, in fact, no alternative but to find a way of making the process viable and credible. Between security on the one hand, and the end of occupation, the restoration of sovereignty and independence and the advent of a legitimate Iraqi Government and political regime on the other, there is a dialectical link that is obvious. Security is essential for the process to be completed. A viable political process is no panacea; it is a powerful contributing factor to security — hence the importance of a credible Iraqi Government being in place, leading the way in the completion of the next phases of the political process. In the end, the solution to Iraq's problems will have to come from the Iraqis themselves. The sooner a credible Iraqi Government is in place to lead the way, the better, especially because the absence of such a sovereign Government is part of the problem in the first place.

For that reason, among others, virtually every Iraqi with whom we met urged that there be no delay in bringing an end to the occupation — by 30 June at the latest. They maintain that view even though they understand that a democratically elected, and therefore fully legitimate, Government will not be in place by that date.

The elections scheduled to take place by January 2005 are the most important milestone in the process. Until that time, any Iraqi governing body that exists will, by definition, be less than fully representative. There is no substitute for the legitimacy that comes from free and fair elections. Therefore, Iraq will have a fully representative Government only after January 2005.

As I said earlier, a United Nations electoral team has already started work in Baghdad and has made a number of field visits. In the near future, the Secretariat will be in a position to brief the Security Council separately, and in detail, on the observations and findings of the electoral assistance team's work to date with regard to the preparations for those elections.

Meanwhile, the question obviously arises as to whom the Coalition Provisional Authority will yield power by 30 June. The 15 November 2003 political agreement and the Transitional Administrative Law call for the dissolution of the Iraqi Governing Council by 30 June 2004. Continuing with the Interim Governing Council, either in its present form or with some adjustment, is therefore by its own decision not an option.

The majority of Iraqis with whom we spoke told us that, under the circumstances, they favoured the establishment of a new caretaker Government composed of honest and technically qualified persons. There is near unanimity that the Government should be led by a very qualified prime minister. We would suggest that a president should serve as head of State, with two vice-presidents. Some Iraqis are asking whether, at this stage and for such a short period, it is really necessary to have two vice-presidents in addition to the head of State. There are certainly people who feel uneasy about what they see as excessive and, indeed, negative concern with ethnic balance. On the other hand, many others strongly support this particular proposal and point out that useful lessons could be derived from the existence of a president and two vice-presidents for the coming phases of the transition, as well as for the drafting of the constitution by the elected national assembly.

In general, there are many permutations one could explore for the structure of the caretaker Government. But what we are suggesting here has the merit of enjoying the support of many of the Iraqis with whom we have met and is reasonably simple and straightforward.

What should be the responsibilities of and constraints on such a caretaker Government? The caretaker Government, by definition, must be short-lived, as its sole purpose will be to tend to the day-to-day administration of the country in as effective and

efficient a manner as possible, and only until such time as a democratically elected Government can be put in place. While they carry out these responsibilities, the members of the caretaker Government must be careful not to use their positions to try and give advantage to any political party or group. In order to prevent even the perception that they might do so, it would be best if the members of the caretaker Government, including the interim president, vice-presidents and prime minister, were to choose not to stand for election.

The caretaker Government also needs to be mindful at all times of the fact that it has not been democratically elected. It should therefore refrain to the maximum extent possible from entering into long-term commitments that can and should await decision by an elected Government. In moments of doubt on that question or when faced with potentially sensitive or divisive issues, it should err on the side of caution. It should also seek the advice of representatives of all parts of Iraqi society. To that end, we suggest the establishment of a consultative assembly or council, which would be available to the caretaker Government for this purpose throughout its short tenure.

Who whould select the caretaker Government? Ideally, the Iraqi people themselves should select the Government. They know who is and who is not honest or qualified. Furthermore, there are honest and qualified people in every single political party and in every regional, ethnic and religious group. It should not be difficult to identify a list of extremely well-qualified candidates — men and women — for every single position who are representative of Iraq's diversity.

The United Nations can certainly help the Iraqi people in that process, as requested, by meeting with as many of them as possible and identifying where points of consensus could be forged. Though it will certainly not be easy, we believe that it will be possible to identify by the end of May a group of people respected by and acceptable to Iraqis across the country, to form this caretaker Government. Those individuals would then have approximately one month to prepare to assume responsibility for governing the country. Those preparations should include reaching clear understandings on the nature of the relationship among the sovereign caretaker Government, the former occupying Powers — the Powers that by then will be the former occupying Powers — and any foreign forces remaining in the country after 30 June, in addition to an understanding of what assistance, if any, might be required from the United Nations.

How does the idea of convening a national conference fit in? Many Iraqis have suggested that the United Nations convene a national conference, consisting of at least 1,000 people, to engage in a genuine national dialogue on the country's challenges. We could not agree more that there is no greater priority than forging genuine national consensus, and that, to that end, it would be extremely worthwhile to convene a national conference.

In our view, however, the conference should be convened not by the United Nations or by any other external body, but by an Iraqi preparatory committee, which should be established as soon as possible. The committee should work towards identifying who should take part in the conference, when and where it should be convened and how it should be managed. The committee should comprise a small number of reputable and distinguished Iraqis — including prominent and respected judges — who are not seeking political office. The United Nations is ready to facilitate consensus among Iraqis on a suitable slate of names for the committee.

In order to do a proper job, the committee will need at least one to two months to consult widely around the country. Under the circumstances, it would seem that July would be the earliest time to convene the national conference. From preliminary discussions of this idea, we see the conference bringing together anywhere from 1,000 to 1,500 people representing every province in the country, all political parties, tribal chiefs and leaders, trade and professional unions, universities, women's groups, youth organizations, writers, poets and artists, as well as religious leaders, among many others.

For the past three decades, Iraqis were not communicating with one another inside their country. "We were even afraid to talk in front of our children", many of them told us. The conference will, to begin with, allow such a wide and representative sample of Iraqi society to talk to one another and discuss their painful past as well as the future of their country. They will no doubt discuss, first and foremost, the security situation and perhaps contribute ideas on how it should be addressed. They will also talk about the forthcoming elections and will contribute ideas on how to ensure that they are organized in a timely and successful

manner. They will further discuss those aspects of the Transitional Administrative Law that are still the subject of much debate and misunderstanding.

In that connection, I welcome the clarification made recently by Ambassador Paul Bremer, the Administrator of the Coalition Provisional Authority, who, among other things, stressed that "the interim Government will not have the power to do anything which cannot be undone by the elected Government, which takes power early next year".

The fact is that the Transitional Administrative Law is exactly what it says it is: a transitional administrative law for the transition period. It is not a permanent constitution. Indeed, it is not a constitution at all. The Transitional Law — or any other law adopted in the present circumstances — cannot, in our opinion, tie the hands of the national assembly, which will be elected in January 2005 and will have the sovereign responsibility of freely drafting Iraq's permanent constitution. But, again as Ambassador Bremer said,

> "Iraqi unity requires a constitution that all of Iraq's communities can support. It is a fundamental principle of democracy that the constitution should provide for majority rule but also protect minority rights."

Finally, the conference will appoint a consultative council, which will be available to provide advice to the Government. The council would conduct plenary debates to convey the preoccupations of the people to the Government, and it would form committees, which would receive reports from ministers.

As one can see, the convening of the national conference may ultimately constitute an important step towards many things, not least national reconciliation. Questions were raised by some of our Iraqi interlocutors about what that term — "national reconciliation" — actually entails and requires. Of course, the preparatory committee will have to address this issue in due course. But what can be said at this stage is that no one, inside or outside Iraq, is thinking of bringing back the old regime or any of its leaders. Nor should anyone contemplate condoning, directly or indirectly, the gross abuses of the painful past or abandoning the principle of accountability for past crimes. National reconciliation is not a euphemism for impunity.

The issues I have mentioned — including how Iraqis will come to terms with the past — ultimately need to be addressed by the Iraqi people themselves. But the actions that the Coalition Provisional Authority takes in the meantime will affect those discussions and could help to reduce existing tensions significantly. I have in mind in particular — as I mentioned in Baghdad — the manner in which the new army is formed, how the issue of "de-Baathification" is handled and how concerns about due process for current detainees are addressed.

In that regard, I would draw the Council's attention to public remarks made recently by Ambassador Bremer. In those remarks, he indicated that more officers with honourable records — including officers from the former army — would be brought back into the new army. He announced that beginning on 10 May the Coalition Provisional Authority would regularly post lists of detainees at police stations and courthouses throughout the country. He indicated that action would be taken to address legitimate grievances about the way in which the "de-Baathification" policy has been implemented, and he mentioned measures to immediately address that with respect to desperately needed teachers, university professors and so on. If, as a result, thousands of teachers will indeed be able to go back to work, and if thousands more will indeed begin to receive their pensions, then that would be an important step towards the kind of reconciliation that people are currently discussing in Iraq. Such steps may well have a positive effect, even on the security situation.

Another important step that the Coalition Provisional Authority has been considering is the dissolution of existing militias, including the Mahdi Army but of course not only that Army.

In general, I draw attention to those remarks as an illustration of the types of actions that we believe would begin to address very serious grievances raised by Iraqis around the country. In turn, that would help to improve — at least a little — the general atmosphere in which the political process needs to take place.

Looking to the days, weeks and months ahead, our intention is to resume our consultations in Iraq as soon as possible. We earnestly hope that the next phase of consultations will help to consolidate a consensus around the ideas that I have just outlined. Adjustments may be required in order to build as broad a base of

support as possible. Once broad support for the framework is evident, we will then proceed to help to facilitate an Iraqi consensus on the actual composition of the caretaker Government and of the preparatory committee for the national conference.

As I have indicated, I hope all of that can be completed before the end of May 2004. We will, of course, be consulting constantly with Iraqis inside and outside the Governing Council — as well as with the Coalition Provisional Authority — throughout this period. We plan also to intensify dialogue with interested Member States, Iraq's neighbours in particular, in order to seek their advice on and support for this political transition process.

There is much to do, and time is short. The tasks that the Security Council has welcomed and strongly supported us in doing at this juncture — namely, to assist with the establishment of an interim Government by 30 June 2004 and with the preparation of elections to be held by January 2005 — will not be easy. To the contrary, there will be potentially dangerous pitfalls and massive obstacles at every step of the way. But the job is doable so long as we set principled but realistic targets and move towards them with deliberate steps, and so long as we are not alone as we take those steps. In particular, we will need the Security Council to be united behind us and with us.

The President: I thank Ambassador Brahimi for his very comprehensive briefing.

I take this opportunity to welcome the presence of the Secretary-General at this meeting.

In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion of the subject.

The meeting rose at 4.15 p.m.

United Nations S/PV.4953

Security Council

Fifty-ninth year

Provisional

4953rd meeting

Tuesday, 27 April 2004, 6.15 p.m.

New York

President	Mr. Pleuger	(Germany)
Members	Algeria	Mr. Baali
	Angola	Mr. Gaspar Martins
	Benin	Mr. Adechi
	Brazil	Mr. Valle
	Chile	Mr. Andereya
	China	Mr. Wang Guangya
	France	Mr. de La Sablière
	Pakistan	Mr. Akram
	Philippines	Mr. Baja
	Romania	Mr. Suseanu
	Russian Federation	Mr. Gatilov
	Spain	Mr. Arias
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Negroponte

Agenda

The situation between Iraq and Kuwait

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04-32684 (E)

The meeting was called to order at 6.15 p.m.

Adoption of the agenda

The agenda was adopted.

The situation between Iraq and Kuwait

The President: The Security Council will continue its consideration of the item on the agenda. The Security Council is meeting in accordance with the understanding reached in its prior consultations.

After consultations among members of the Security Council, I have been authorized to make the following statement on behalf of the Council:

"The Security Council welcomes with appreciation the comprehensive briefing provided by the Secretary-General's Special Adviser Mr. Lakhdar Brahimi.

"Recalling its Presidential Statement of 24 March 2004 the Security Council considers the efforts of the Special Adviser and his team as well as those of the UN electoral assistance team to be of particular importance and urgency.

"The Security Council strongly supports the efforts and dedication of the Special Adviser and welcomes the provisional ideas he has submitted as a basis for the formation of an interim Iraqi government to which sovereignty will be transferred on 30 June 2004.

"The Security Council encourages the Secretary General and his Special Adviser to continue diligently with the efforts that they are employing, and welcomes the Special Adviser's intention to return to Iraq shortly and looks forward to a further briefing upon his return.

"The Security Council calls on all Iraqi parties to cooperate fully with the Special Adviser, and also calls on Iraq's neighbours and the international community at large to lend all support possible to these efforts."

This statement will be issued as a document of the Security Council under the symbol S/PRST/2004/11.

The Security Council has thus concluded the present stage of its consideration of the item on the agenda.

The meeting rose at 6.15 p.m.